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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1895.

No. 622.

PLUTARCO ORNELAS, CONSUL OF THE REPUBLIC OF MEXICO, APPELLANT,

vs.

INEZ RUIZ, JESUS GUERRA, AND JUAN DUQUE.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TEXAS.

FILED MAY 22, 1895.

(15,910.)

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a THE UNITED STATES OF AMERICA, }
Western District of Texas. }

At a term of the district court of the United States for the western district of Texas, the Honorable T. S. Maxey, United States district judge, presiding, and holding its sessions at San Antonio, Texas, and which term began on the 5th day of November, A. D. 1894, and continued in session until the 28th day of December, A. D. 1894, there came on to be heard, among other causes pending on the criminal side of the docket, the following:

Ex Parte INEZ RUIZ and JESUS GUERRA. No. 1301.

Ex Parte JUAN DUQUE. No. 1302.

1 *Petition for Writ of Habeas Corpus and Certiorari—Juan Duque.*

To the Hon. Thos. S. Maxey, judge of the United States dist. court in and for the western dist. of Texas, at San Antonio, Texas:

The petition of Juan Duque respectfully shows that he is a resident and citizen of the State of Texas, in said western dist. of Texas; that he was on the 20th day of June, 1894, arrested under and by a warrant of arrest issued by Hon. L. F. Price, U. S. commissioner at San Antonio, under complaint made against petitioner for the crimes of murder, arson, robbery, and kidnapping, committed in San Ygnacio, Mexico, on 10th December, 1892, which complaint and warrant of arrest are for the extradition of your petitioner to the Republic of Mexico.

That on the 17th day of July petitioner was committed to Bexar county jail in Bexar county, Texas, by warrant of commitment, and he is illegally restrained of his liberty by R. C. Ware, U. S. marshal of the western dist. of Texas, at San Antonio, Texas; that the final warrant of commitment is in words as follows:

UNITED STATES OF AMERICA, }
Western Dist. of Texas. }

The President of the U. S. to the jailer of Bexar county, Greeting:

Whereas complaint has been made under the oath of Plutarco Ornelas, consul of the Republic of Mexico, before L. F. Price, a commissioner of the circuit court of the U. S. in and for said dist. and duly authorized by said court to issue warrants for the arrest of fugitives from foreign countries, that one Juan Duque did, on or about the 10th day of December, 1892, at the village of San Ygnacio, in the State of Tamaulipas, Republic of Mexico, and within the jurisdiction and government of said Republic of Mexico, commit the crimes of murder, arson, robbery, and kidnapping—that is to say, that the said Juan Duque did at the time and place aforesaid unlawfully, feloniously, and of his express malice aforethought assault, shoot, and kill Capt. Ratillio Seguro, Manuel Combia, and

eight other persons, whose names are set out in full in the complaint now on file against him, the said Juan Duque, in the office of said commissioner, and, further, that the said Juan Duque did at the time and place aforesaid unlawfully and feloniously set fire to and burn and consume a certain house or barracks and other buildings, and did then and there kidnap and by force and violence bring from and out of the territory and jurisdiction of the Republic of Mexico into the State of Texas Pedro Salinas and ten other persons, who were then and there residents and citizens of said Republic of Mexico;

That the said Juan Duque is a fugitive from justice of the Republic of Mexico, and did, on or about the 10th day of December, A. D. 1892, flee into the jurisdiction of the U. S. for the purpose of seeking an asylum, and that the crimes with which the said Juan Duque is charged are embraced in the treaty of extradition between the U. S. and the said Republic of Mexico, of date Dec. 11, 1861, and the said Juan Duque having been brought before me in presence of a warrant of arrest issued upon said complaint, and having been examined concerning the charges alleged against him, the commissioner finds that the evidence is sufficient in law to justify the commitment of the said Juan Duque on said charges. These are therefore to command you to receive the said Juan Duque into your custody to wait the order of the President of the U. S. in the premises.

In witness whereof I have hereunto set my hand, at office, in San Antonio, Tex., this 19th day of July, 1894.

L. F. PRICE,
Com. of U. S. Circuit Court in and for the Western Dist. of Texas.

2 Came to hand on this 17th day of July, 1894, and executed on the 17th day of July, A. D. 1894, by committing to jail in the county jail of Bexar county, Texas, Juan Duque, the within-named defendant, and delivering to the jailer of said jail in person a true copy of this commitment.

R. C. WARE,
U. S. Marshal, W. D. T.,
By J. E. WARE, *Deputy.*

That by reason of the said complaint, warrants of arrest and commitment, and all the proceedings had under the same, petitioner is illegally restrained of his liberty by R. C. Ware, U. S. marshal of western dist. of Texas, at San Antonio, Texas, and prays your honorable court to grant the writ of *habeas corpus* to R. C. Ware and show cause why petitioner should not be discharged.

And petitioner prays for the writ of certiorari to the Hon. L. F. Price, commissioner of the U. S. circuit court at San Antonio, Texas, to send up all the original papers in this cause submitted, that this petitioner may be accorded every right under the law.

And that the rights of petitioner may be fully adjusted under the pleas, objections, and demurrers filed before the Hon. L. F. Price,

U. S. commissioner in and for the western district of Texas, and for such other orders and relief which the court may be pleased to grant to carry out every right accorded to petitioner; and, in duty bound, petitioner will ever pray.

(Signed) JUAN DUQUE.

(Signed) W. H. BROOKER,
Att'y for Petitioner.

Personally appeared before the undersigned authority Juan Duque, who, being duly sworn, says that the facts and matters and things set forth in the above petition for writ of *habeas corpus* are true and correct to the best of affiant's knowledge and belief, and that which he gains from others he believes to be true.

(Signed) JUAN DUQUE.

Sworn to and subscribed before me on this the 27th day of July, 1894.

[SEAL.] (Signed) JAMES W. MADDOX,
Notary Public, Bexar County, Texas.

Indorsed: *In re* Juan Duque. Petition for writ of *habeas corpus* and certiorari. Filed July 27, 1894. D. H. Hart, clerk.

Petition for Writ of Habeas Corpus—Inez Ruiz and Jesus Guerra.

To the Honorable Thos. S. Maxey, judge of the U. States dist. court in and for the 5th circuit and western dist. of Texas, at San Antonio, Texas:

The petition of Inez Ruiz and Jesus Guerra respectfully show that they are residents of Starr county, State of Texas; that they have enjoyed the liberty and privilege of such residence for many years past.

3 That on the 18th day of May, 1894, they were arrested by R. C. Ware, the U. S. marshal of the western dist. of Texas, at San Antonio, Texas, while petitioners were attending the sitting of the honorable U. S. circuit court at San Antonio, in obedience to summons and mandate thereof.

That the said petitioners were so arrested and held under warrants of arrest issued on 17th day of May, 1894, by Hon. L. F. Price, U. S. commissioner for western dist. of Texas, at San Antonio, Texas, such warrants of arrest being based on complaints filed in said commissioners' court on the 17th day May, 1894, by one P. Ornelas, claiming to be Mexican consul, at San Antonio, Texas; which complaints charge petitioners with the crimes of murder, arson, robbery, and kidnapping, committed on the 10th day of December, 1892, at San Ygnacio, State of Tamaulipas, Republic of Mexico.

That on the hearing of said cause before said U. S. commissioner, L. F. Price, the defendants were committed to Bexar county jail, in Bexar county, Texas, where they are now confined and re-

strained of their liberty by R. C. Ware, the U. S. marshal in and for the western dist. of Texas, at San Antonio, Texas, by virtue of two warrants of commitment, dated respectively on June 13th and June 23rd, 1894, which are in words and substance as follows:

UNITED STATES OF AMERICA, } *sct:*
Western District of Texas, }

The President of the United States to the jailer of Bexar county, Greeting:

Whereas complaint has been made under oath of P. Ornelas, consul of Mexico, before L. F. Price, a commissioner of the circuit court of the United States in and for said dist. and duly authorized by said court to issue warrants for the arrest of fugitives from justice of foreign governments, that one Ynez Ruiz (and Jesus Guerra) did, on or about the 10th day of December, 1892, at San Ignacio, in the State of Tamaulipas and Republic of Mexico, within the jurisdiction and government of said Republic of Mexico, commit the crimes of murder, arson, robbery, and kidnapping—that is to say, that the said Ynez Ruiz (& Jesus Guerra) did at the time and place aforesaid unlawfully, feloniously, and of his express malice aforethought assault, shoot, and kill Captain Rutilio Segura, Lieut. Manuel Corumbias, and eight other persons, whose names are set out in full in the complaint now on file in this case with said commissioner, all of whom were then and there in the peace of God and said Republic of Mexico and were then and there residents and citizens of said Republic; and, further, that the said Ynez Ruiz (and Jesus Guerra) did then, at the time and place aforesaid, with and by the assistance of divers other persons, by force and violence and by putting in fear of bodily harm, unlawfully and feloniously kidnap, carry, and bring from and out of the territory and jurisdiction of the said Republic of Mexico into the State of Texas the following-named persons, viz., Marciano Rindon, Refugio Tirelio, Juan Rodriguez, and thirteen others, whose names are set out in the aforesaid complaint in this case now on file with said commissioner, all of whom were then and there residents and citizens of said Republic of Mexico; and, further, that the said Ynez Ruiz (and Jesus Guerra) at the time and place aforesaid did then and there commit the crimes of arson and robbery by maliciously and feloniously setting fire to, igniting, and burning a certain house or barracks in which were certain dead and wounded men, and did then and there and thereby cause said house or barracks to be consumed by fire, together with the bodies of the dead and wounded men therein, and did then and there rob certain men and women of money, clothes, and other articles belonging to the government of Mexico; that the said Ynez Ruiz (& Jesus Guerra) is (are) fugitives from justice of the said Republic of Mexico, and did, on or about the 10th
4 day of December, 1892, flee into the jurisdiction of the United States for the purpose of seeking an asylum, and that the crimes with which the said Ynez Ruiz (& Jesus Guerra) (are) is charged are enumerated and embraced in the treaty of extradition

between the United States and the Republic of Mexico of date December 11, 1861; and the said Ynez Ruiz (and Jesus Guerra) having been brought before said commissioner in pursuance of a warrant of arrest issued upon said complaint, and having been examined concerning the charges alleged against him (them), the commissioner finds that the evidence is sufficient in law to justify the commitment of the said Ynez Ruiz (and Jesus Guerra) on the aforesaid charges.

These are therefore to command you to receive the said Ynez Ruiz (and Jesus Guerra) into your custody to await the order of the President of the United States in the premises.

In witness whereof I hereunto set my hand, at office, in San Antonia, in said dist., this 13th day of June, A. D. 1894.

L. F. PRICE,
Coms. U. S. Circuit Court in and for said Dist.

Came to hand this 13th day of June, 1894, and executed on the 13th day of June, 1894, by placing the body of the within-named defendant, Ynez Ruiz, in the county jail of Bexar county, Texas, and delivering to the jailer of said county a true copy of this writ.

RICHARD C. WARE,
U. S. Marshal, W. D. T.,
By J. E. WARE, *Deputy.*

That on the 23rd day of June, 1894, a like warrant was issued against Jesus Guerra and the same like return was made on said warrant by R. C. Ware, the U. S. marshal of western dist. of Texas.

That petitioners are restrained of their liberty illegally by the said R. C. Ware, U. S. marshal of the western dist. of Texas, at San Antonio, Texas—

For that the complaint and the charges therein set forth are not made according to law nor the treaty by which petitioners are sought to be extradited.

And the complaints and the warrants of arrest are fatally defective in not defining the crimes for which petitioners are sought for extradition, and that petitioners' exceptions and demurrers to the complaints and warrants of arrest should have prevailed and petitioners discharged.

Because petitioners are not citizens of the Republic of Mexico nor residents thereof, but residents of the State of Texas, U. S. of America, and because petitioners are sought as political prisoners against the Republic of Mexico, for that any participation on the part of petitioners in the fight at San Ygnacio, Mexico, on 10th December, 1892, could not be held in any other light than an act of war, in revolution, hostile, contending forces, duly armed and organized as such, and were belligerents in the act of war, not murder, arson, robbery, nor kidnapping; that the killing in the battle was not murder, but simply man-killing as incidents of modern warfare.

That the revolution was fully organized and the proclamations issued and the whole county in uprising, and hence the participants

in that revolution can be sought on no other grounds than political revolt.

That the fight at San Ygnacio, Mexico, was fought by and between the troops, officers, and soldiers of the Mexican army on one side and the Garza revolutionists under the lead and command of Francisco Binivedes and other officers under his command; that the battle lasted three or four hours, in which several were killed and wounded on both sides; that no arson was committed, no robbery perpetrated, and no kidnapping done.

That petitioners claim the right of asylum and protection as political prisoners, and ask to be discharged as such, and ask judgment of the court on all the questions bearing on the restraint of their liberty, as set forth in the complaints and warrants of arrest referred to hereinbefore.

That the evidence submitted on the trial before the U. S. commissioner against your petitioners is very voluminous, and petitioners are unable to attach a copy of it to their petition herein.

Petitioners pray your honor to issue the writ of *habeas corpus* to the said R. C. Ware, U. S. marshal of the western dist. of Texas, at San Antonio, Texas, to show cause why petitioners should not be discharged after a hearing hereof, and all the matters and things pertaining thereto.

Petitioners set forth that their pleas, exceptions, and demurrers to the proceedings in the U. S. commissioners' court before L. F. Price, U. S. coms., should have prevailed, and for the fuller and more complete direction of your honorable court in determining the legal status of petitioners under the law and under the treaty.

Petitioners ask that the writ of certiorari be issued to the said L. F. Price, U. S. commissioner for western dist. at San Antonio, Texas, of the U. S. circuit court, requiring him to send up all the original papers filed in the said causes, No. 312 and 313, in his said court, styled *In re versus* Inez Ruiz & Jesus Guerra, in extradition, respectively, in order that the legal rights and status of petitioners may be fully determined and that petitioners may be discharged from extradition.

And pray for all further orders and decrees of the court essential to carry out the ends of this petition to the fullest extent; and, in duty bound, petitioners will ever pray, &c.

(Signed) YNEZ RUIZ.
(Signed) JESUS GUERRA.

(Signed) W. H. BROOKER,
Att'y for Petitioners.

Came now in person Inez Ruiz and Jesus Guerra, who on oath say the facts and matters and things set forth in the foregoing petition for writ of *habeas corpus* are true and correct as stated to the best of their knowledge and belief, and what they gain from others they believe to be true.

(Signed) YNEZ RUIZ.
(Signed) JESUS GUERRA.

Subscribed and sworn to before me this 20th day of July, 1894.

(Signed) W. P. BUCKLEY,
[SEAL.] *Notary Public, Bexar County, Texas.*

Indorsed: No. —. *In re Ex parte* Inez Ruiz & Jesus Guerra. Petition for writ of *habeas corpus.* Filed July 23, 1894. D. H. Hart, clerk.

6 *Order of Court—Juan Duque.*

United States of America, Western District of Texas, at Chambers, San Antonio, Texas.

Ex Parte JUAN DUQUE.

Whereas Juan Duque has presented his petition to me, alleging that he is unlawfully restrained of his liberty by R. C. Ware, United States marshal of the western district of Texas, the petition alleging in effect that said Ware is acting in obedience to a certain warrant of arrest issued by L. F. Price, commissioner of the circuit court for said district, under a certain treaty existing between the United States and the Republic of Mexico; and

Whereas the petitioner aforesaid prays for the issuance in his behalf of the writ of *habeas corpus:*

The said petition being duly considered, it is therefore ordered that the prayer of the petition be granted, and that the clerk of this court issue the writ as prayed for, directed to the said R. C. Ware, marshal as aforesaid, commanding him to have the body of the said Juan Duque before me in the United States court-room at San Antonio, Texas, at ten o'clock a. m., on the second Monday of November, A. D. 1894, together with the cause of his restraint and detention.

It is further ordered that a certified copy of this order be by said clerk forthwith furnished to the consul of the Republic of Mexico, resident at San Antonio, Texas, to wit, Hon. P. Ornelas, and that a writ issue by said clerk to L. F. Price, commissioner as aforesaid, directing him to return to and have before me on said second Monday of November, 1894, at the hour named, the cause of imprisonment of said Juan Duque and all original papers in his office pertaining or having reference to the arrest, detention, and extradition of said Juan Duque, the said original papers of the commissioner's office to be returned to him by the clerk after the termination of the proceedings upon the hearing of this cause.

It is further ordered that said petition be filed and docketed by the clerk, and that this order be duly entered upon the minutes of the United States district court for said district at the San Antonio division thereof.

The date of the return of the writ in this case and the hearing of the application are set as aforesaid by virtue of a written stipulation of the attorneys interested therein now on file in this cause.

Ordered at chambers this the 27th day of July, A. D. 1894.

(Signed) T. S. MAXEY, *U. S. Judge.*

Indorsed: No. 1302. *Ex parte* Juan Duque. Order of court. Filed July 27th, 1894. D. H. Hart, cl'k, by W. McMaster, deputy.

Order of Court—Inez Ruiz and Jesus Guerra.

United States of America, Western District of Texas, at Chambers, Austin, Texas.

Ex Parte YNEZ RUIZ and JESUS GUERRA.

7 Whereas Ynez Ruiz and Jesus Guerra have presented their petition to me, alleging that they are unlawfully restrained of their liberty by R. C. Ware, United States marshal of the western district of Texas, the petition alleging in effect that said Ware is acting in obedience to certain warrants of arrest issued by L. F. Price, commissioner of the circuit court for said district, under a certain treaty existing between the United States and the Republic of Mexico; and whereas the petitioners aforesaid pray for the issuance in their behalf of the writ of *habeas corpus:*

The said petition being duly considered, it is therefore ordered that the prayer of the petition be granted and that the clerk of this court issue the writ as prayed for, directed to the said R. C. Ware, marshal as aforesaid, commanding him to have the bodies of the said Ynez Ruiz and Jesus Guerra before me in the United States court-room at San Antonio, Texas, at 11 o'clock a. m., on the 27th day of July, 1894, together with the cause of their restraint and detention.

It is further ordered that a certified copy of this order be by said clerk forthwith transmitted by registered mail to the consul of the Republic of Mexico, resident at San Antonio, Texas, to wit, Hon. P. Ornelas, and that a writ issue by said clerk to L. F. Price, commissioner as aforesaid, directing him to return to and have before me on said 27th day of July, at the hour named, the cause of imprisonment of said Ynez Ruiz and Jesus Guerra and all original papers in his office pertaining or having reference to the arrest, detention, and extradition of said Ruiz and Guerra, the said original papers of the commissioner's office to be returned to him by the clerk after the termination of the proceedings upon the hearing of this cause.

It is further ordered that said petition be filed and docketed by the clerk, and that this order be duly entered upon the minutes of the United States district court for said district at the San Antonio division thereof.

Ordered at chambers this the 23rd day of July, A. D. 1894.

(Signed) T. S. MAXEY,
U. S. Dist. Judge.

Indorsed: *Ex parte* Ynez Ruiz & Jesus Guerra. Order of court. Filed and entered July 24th, 1894. D. H. Hart, clerk, by W. McMaster, deputy.

Writ of Certiorari—Ynez Ruiz and Jesus Guerra.

The President of the United States to the marshal of the western district of Texas, Greeting:

Whereas on the 13th day of June, A. D. 1894, L. F. Price, United States commissioner for the western district of Texas, at San Antonio, committed Ynez Ruiz and Jesus Guerra to the county jail of Bexar county, Texas, after examination upon charges duly filed against them and each of them by complaint and application for extradition;

And whereas said Ynez Ruiz and Jesus Guerra have prayed for the issuance of a writ of *habeas corpus* and the same has been granted by the Hon. T. S. Maxey, United States district judge for the western district of Texas, and set the matters for hearing at the United States court-room, at San Antonio, Texas, Friday, July 27th, A. D. 1894, 11 o'clock a. m:

Therefore you are hereby commanded that you cause the said L. F. Price, commissioner as aforesaid, to have before the Hon-
8 orable T. S. Maxey, United States district judge for the western district of Texas, at the United States court-room, at San Antonio, Texas, at the hour and on the date above named, the cause of imprisonment of said Ynez Ruiz and Jesus Guerra and all original papers in his office pertaining or having reference to the arrest, detention, and extradition of said Ruiz and Guerra.

Herein fail not, but have you then and there before said court this writ, with your return thereon showing how you have executed the same.

Witness the Hon. T. S. Maxey, United States district judge for the western district of Texas, this the 23rd day of July, A. D. 1894.

[SEAL.] (Signed) D. H. HART, *Clerk.*

Received this writ at Austin, Texas, on this the 23rd day of July, A. D. 1894, and was executed at San Antonio, Texas, on this the 25th day of July, A. D. 1894, by reading in the hearing and presence of the within-named United States commissioner, L. F. Price.

(Signed) R. C. WARE,
U. S. Marshal, W. D. Texas.

Indorsed: No. 1301. *Ex parte* Ynez Ruiz & Jesus Guerra. Writ of certiorari. Issued July 23, 1894. D. H. Hart, clerk. Filed July 27, 1894. D. H. Hart, clerk.

Application for Habeas Corpus.

Ex Parte JUAN DUQUE.

Application for *habeas corpus.*

Comes R. C. Ware, U. S. marshal for the western district of Taxes, and respectfully represents—

That the original writ of *habeas corpus* issued in this cause has become lost from the files.

That counsel for the applicant, with leave of the court, has agreed that the return of the said marshal may be substituted.

Accordingly the marshal, showing cause and authority why he detains in his custody the said applicant, files herewith a true copy of the original warrant of arrest heretofore issued by L. F. Price, a commissioner of the United States for the western district of Texas, and exhibits the same, with his return thereon, as his authority, and at the same time produces the body of the said applicant before the U. S. district court for the western district of Texas at San Antonio, Texas, sitting on this the 26th day of December, A. D. 1894.

This in accordance with the commands of said writ of *habeas corpus* heretofore issued, but lost as aforesaid.

(Signed) DUVAL WEST,
Attorney for R. C. Ware, U. S. Marshal.

Substituted Return of U. S. Marshal on Writ of Habeas Corpus—Juan Duque.

UNITED STATES OF AMERICA, }
Western District of Texas. }

9 The President of the United States of America to the marshal of the United States in said district, Greeting:

Whereas complaint has been made under the oath of Pentarco Ornelas, consul of the Republic of Mexico, resident in San Antonio, Bexar county, Texas, before L. F. Price, commissioner of the circuit court of the United States in and for said district and duly authorized by said court to issue warrants for the arrest of fugitives from justice of foreign governments, that one Juan Duque did, on or about the 10th day of December, A. D. 1892, at a town or village called Ynacio, in the State of Tamaulipas, Republic of Mexico, and within the jurisdiction and government of *of* said Republic of Mexico, commit the crime of murder, arson, kidnapping, and robbery—that is to say, that the said Juan Duque did at the time and place aforesaid unlawfully, feloneously, and of his express malice aforethought assault, shoot, and kill Rutilo Segura and nine other persons, whose names are set out in the affidavit made against said Juan Duque and now on file in the office of and with United States Commissioner L. F. Price, before whom said affidavit of complaint was made; that said Juan Duque did at the time and place aforesaid maliciously and feloneously commit the crimes of arson and robbery by setting fire to and igniting a certain house or barracks in which were a number of dead and wounded men, whereby the said house or barracks, together with the dead and wounded men therein, were burned and consumed and robbed; that said Juan Duque did at the time and place aforesaid, with the aid and assistance of divers other persons to said affiant unknown, by force and violence and by putting in fear of bodily harm, unlawfully and feloneously kidnap, convey, and bring from and out of the jurisdiction and territory of the said

Republic of Mexico into the State of Texas one Mariano Rendon and twenty-one other persons, whose names are fully set out in the aforesaid sworn complaint made against the said Juan Duque as aforesaid and now on file with United States Commissioner L. F. Price as aforesaid; that said Juan Duque is a fugitive from justice of the State of Tamaulipas and the said Republic of Mexico, and did, on or about the 10th day of December, A. D. 1892, flee into the jurisdiction of the United States for the purpose of seeking an asylum, and that the crimes charged to have been committed by said Juan Duque are crimes enumerated and embraced in the treaty of extradition now in force between the United States and said Republic of Mexico:

These are therefore to command you forthwith to apprehend the aforesaid Juan Duque and bring him before said commissioner to answer to the premises and further to be dealt with according to law and the provisions of said treaty.

In witness whereof I have hereunto set my hand and seal, at office, in San Antonio, this 20th day of June, 1894.

L. F. PRICE,
Commissioner of the Circuit Court of the
[SEAL.] *United States, Western District of Texas.*

Came to hand the 20th day of June, 1894, and executed the 20th day of June, 1894, by arresting Juan Duque and placing him in the Bexar county jail, at San Antonio, Texas.

RICHARD C. WARE,
U. S. Marshal,
By F. H. LANCASTER, *Deputy.*

Endorsed: 319. *In re* Juan Duque. Extradition. Warrant of arrest. Issued this 20 day of June, 1894. L. F. Price, U. S. commissioner.

Endorsed: No. —. *Ex parte* Juan Duque. Substituted return of U. S. marshal on writ of *habeas corpus*. Filed Dec. 26, 1894. D. H. Hart, clerk.

10 *Warrant of Commitment—Ynez Ruiz.*

UNITED STATES OF AMERICA, *Western District of Texas,* } *sct:*

The President of the United States to the jailer of Bexar county, Greeting:

Whereas complaint has been made under the oath of P. Ornelas, consul of Mexico, before L. F. Price, a commissioner of the circuit court of the United States in and for said district and duly authorized by said court to issue warrants for the arrest of fugitives from justice of foreign governments, that one Ynez Ruiz did, on or about the 10th day of December, A. D. 1892, at San Ignacio, in the State of Tamaulipas and Republic of Mexico, within the jurisdiction and

government of said Republic of Mexico, commit the crimes of murder, arson, robbery, and kidnapping—that is to say, that the said Ynez Ruiz did at the time and place aforesaid unlawfully, feloneously, and of his express malice aforethought assault, shoot, and kill Captain Rutilio Segura, Lieut. Manuel Cororsubias, and eight other persons, whose names are set out in full in the complaint now on file in this case with said commissioner, all of whom were then and there in the peace of God and said Republic of Mexico and were then and there residents and citizens of said Republic; and, further, that the said Ynez Ruiz did there at the time and place aforesaid, with and by the assistance of divers other persons, by force and violence, and by putting in fear of bodily harm, unlawfully and feloneously kidnap, carry, and bring from and out of the territory and jurisdiction of the said Republic of Mexico into the State of Texas the following-named persons, viz., Marceano Rendon, Refuguo Trillo, J. Juan Rodriguez, and thirteen others, whose names are set out in the aforesaid complaint in this case now on file with said commissioner, all of whom were then and there residents and citizens of said Republic of Mexico; and, further, that the said Ynez Ruiz at the time and place aforesaid did then and there commit the crimes of arson and robbery by maliciously and feloneously setting fire to, igniting, and burning a certain house or barracks in which were certain dead and wounded men, and did then and there and thereby cause said house or barracks to be consumed by fire, together with the bodies of the dead and wounded men therein, and did then and there rob certain men and women of money, cloaks, and other articles belonging to the government of Mexico; that the said Ynez Ruiz is a fugitive from justice of the said Republic of Mexico, and did, on or about the 10th day of December, A. D. 1892, flee into the jurisdiction of the United States for the purpose of seeking an asylum, and that the crimes with which the said Ynez is charged are enumerated and embraced in the treaty of extradition between the United States and the Republic of Mexico of date December 11th, 1861, and the said Ynez Ruiz having been brought before said commissioner in pursuance of a warrant of arrest issued upon said complaint, and having been examined concerning the charges alleged against him the commissioner finds that the evidence is sufficient in law to justify the commitment of said Ynez on the aforesaid charges:

These are therefore to command you to receive the said Ynez Ruiz into your custody to await the order of the President of the United States in the premises.

In witness whereof I hereunto set my hand, at office, in San Antonio, in said district, this 13 day of June, A. D. 1894.

L. F. PRICE,
Comm'r U. S. Circuit Court in and for said District.

11 Come to hand this the 13th day of June, 1894, and executed on the 13th day of June, 1894, by placing the body of the within-named defendant, Ynez Ruiz, in the county jail of Bexar

county, Texas, and delivering to the jailer of said county jail a true copy of this writ.

RICHARD C. WARE,
U. S. Marshal, W. D. T.,
By J. E. WARE, *Deputy.*

Indorsed: No. 312. *In re* Ynez Ruiz. In extradition. Warrant of commitment. Issued this 13th day of June, A. D. 1894. L. F. Price, U. S. comm'r.

Warrant of Commitment—Jesus Guerra.

UNITED STATES OF AMERICA, *Western District of Texas,* } *sct:*

The President of the United States to the jailer of Bexar county, Greeting:

Whereas complaint has been made under the oath of Plutarco Ornelas, consul of Mexico, before L. F. Price, a commissioner of the circuit court of the United States in and for said district and duly authorized by said court to issue warrants for the arrest of fugitives from justice of foreign governments, that one Jesus Guerra did, on or about the 10th day of December, A. D. 1892, in the village of San Ignacio, in the State of Tamaulipas and Republic of Mexico and within the jurisdiction and government of said Republic of Mexico, commit the crimes of murder, arson, robbery, and kidnapping—that is to say, that the said Jesus Guerra at the time and place aforesaid unlawfully and feloneously and of his express malice aforethought did shoot and kill one Capt. Rutilio Siguro and one Lieut. Manuel Corosubias and did then and there ignite, burn, and consume one certain house or barracks in which were a number of dead and wounded men, whereby said dead and wounded men were burned and consumed, and did then and there rob, steal, take, and carry away certain goods and property belonging to the government of Mexico and to certain private citizens of said Republic of Mexico, and did then and there, by the aid and assistance of divers other persons, by force and by putting in fear of bodily harm, kidnap and bring from and out of the territory and jurisdiction of said government of Mexico into the United States of America certain citizens of the said Republic of Mexico, to wit., Pedro Salinas, Damacio Martinez, and Refugio Martinez and others, and that the said Jesus Guerra did, on or about the said 10th day of December, A. D. 1892, flee into the jurisdiction of the United States for the purpose of seeking an asylum, and that the crimes with which the said Jesus Guerra is charged are embraced within the treaty of extradition now in force between the United States and the said Republic of Mexico of date December 11th, A. D. 1861, and the said Jesus Guerra having been brought before said commissioner pursuant to a warrant of arrest issued upon said complaint, and having been examined concerning the charges alleged against him the commissioner finds that the

evidence is sufficient in law to justify the commitment of the said Jesus Guerra on said charges:

These are therefore to command you to receive the said Jesus Guerra into your custody to await the orders of the President of the United States in the premises.

In witness whereof I hereunto set my hand, at office, in San
12 Antonio, in said district, this 23rd day of June, A. D. 1894.

L. F. PRICE,
Comm'r of the U. S. Circuit Court in said District.

Came to hand 23 day of June, and executed 23 day of June, 1894, by placing the within-named Jesus Guerra in jail, in San Antonio, Bexar county, Texas, and delivering to said jailer a copy of this commitment.

(Signed) R. C. WARE,
U. S. Marshal, Western Dist. Texas.

Came to hand this 22nd day of June, 1894, and executed on the 22nd day of June, 1894, by placing Jesus Guerra in the Bexar county jail, at San Antonio, Texas.

RICHARD C. WARE,
United States Marshal,
By F. H. LANCASTER, *Deputy.*

Indorsed: *In re* Jesus Guerra. In extradition. Warrant of commitment. Issued this 23rd day of June, 1894. L. F. Price, U. S. comm'r.

Writ of Habeas Corpus—Ynez Ruiz and Jesus Guerra.

The President of the United States to R. C. Ware, U. S. marshal for the western district of Texas, Greeting.

We command you that you have the bodies of Ynez Ruiz and Jesus Guerra, by you detained and imprisoned, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name said persons shall be called or charged, before the Hon. T S. Maxey, judge of the United States district court for the western district of Texas, at the United States court-room, at San Antonio, Texas, at 11 o'clock a. m. on Friday, the 27th day of July, A. D. 1894, to be dealt with according to law; and have you then and there this writ with your return thereon of your doings in the premises.

Witness the Honorable T. S. Maxey, United States district judge for the western district of Texas, this the 23rd day of July, A. D. 1894.

[SEAL.] (Signed) D. H. HART, *Clerk.*

Came to hand this 23rd day of July, A. D. 1894, and returned this 27th day of July, A. D. 1894. The defendants, Inez Ruiz and Jesus Guerra, are in my custody and held in Bexar county jail, Texas, by virtue of writs of commitments issued by L. F. Price,

U. S. commissioner, W. D. of Texas, at San Antonio, dated June 13, 1894, and June 23, 1894, respectively; copies of said commitments hereto attached and made a part of this return.

RICHARD C. WARE,
United States Marshal for the Western District of Texas.

Indorsed: No. 1301. *Ex parte* Ynez Ruiz and Jesus Guerra. Writ of *habeas corpus*. Issued July 23, 1894. D. H. Hart, clerk. Filed July 27th, 1894. D. H. Hart, clerk.

13 *Complaint—Juan Duque.*

THE UNITED STATES OF AMERICA, }
Western District of Texas. }

Before L. F. Price, a commissioner of the circuit court of the United States in and for said district and duly authorized by said court to issue warrants for the arrest of fugitives from justice of foreign governments, personally appeared Pentarco Ornelas, consul of the Republic of Mexico, resident in San Antonio, Bexar county, Texas, and who, being by me duly sworn, upon his oath says that he has reasonable and credible information, which information he believes to be true, and he charges that one Juan Duque did, on or about the 10th day of December, A. D. 1892, at the town or village called San Ygnacio, in the State of Tamaulipas and Republic of Mexico, near the Rio Grande river and nearly opposite the town of San Ygnacio, in Texas, and within the jurisdiction and government of the aforesaid Republic of Mexico, commit the crime of murder—that is to say, that the aforesaid Juan Duque did at the time and place aforesaid unlawfully, feloneously, and of his express malice aforethought assault, shoot, and kill Captain Rutilio Segura, Lieut. Manuel Cororrubias, Sarge-nt Hilario Garcia, Corporal Jose Maria Rodriguez y Encarnacion Barrias, Private Gumuendo Lopez, Manuel Camarillo, Fermen Marcias, Santiago Barron, Pedro Cruz, and Mateas Huerta, then and there in the peace of God and said Republic and then and there residents and citizens of the aforesaid Republic of Mexico; and affiant further deposes and says that the said Juan Duque did then and there at the time and place aforesaid, with the aid and assistance of divers other persons, to this affiant unknown, feloneously, by force and violence and by putting in fear of bodily harm, kidnap, convey, and bring from and out of the territory and jurisdiction of the aforesaid Republic of Mexico into the State of Texas the following-named persons, to wit, Corporal Mariano Rendon, Privates Refugio Trillo, Tomas Reyna, Tomas Cuello, Juan Rodriguez, Natividad Sanchez, Ramon Marcias, Francisco Duran, Ygnacio Gonzalez, Dionicio Gomez, Teodoro Perez, Sabino Gonzalez, Eleno Muñoz, Francisco Ybarra, Cruz Pena, Franco Morales, Elentorio Pinon, Timeteo del Alto, Francisco Rameirez, Juan Cardenas, Emeliano Blanco, and Narciso Morino y Dionicio de Anda, then and there residents and citizens of the aforesaid Republic of Mexico; and affiant further deposes and says that the

said Juan Duque did then and there and at the time and place aforesaid commit the crimes of arson and robbery—that is to say, that the said Juan Duque did at the time and place aforesaid maliciously, wantonly, and feloneously set fire to, ignite, & burn and rob a certain house or barracks, in which said house or barracks were certain dead and wounded men, whose names to affiant are unknown, and did then and there & thereby cause said house or barracks to be consumed by fire, together with the bodies of the dead and wounded men therein, as aforesaid; that the said Juan Duque is a fugitive from justice of the said State, Tamaulipas, in the said Republic of Mexico, and did, on or about the 10th day of December, 1892, flee into the jurisdiction of the United States for the purpose of seeking an asylum, and that the crimes with which the said Juan Duque is herein charged are crimes enumerated and embraced in the treaty of extradition now in force between the United States and the aforesaid Republic of Mexico.

(Signed) PLUTARCO ORNELAS,
Consul of Mexico.

14 Sworn to and subscribed before me this 20 day of June, 1894.

(Signed) L. F. PRICE,
United States Commissioner.

Indorsed: 319. *In re* Juan Duque. Extradition. Complaint. Filed this 20 day of June, 1894. L. F. Price, U. S. comm'r.

Complaint—Ynes Ruiz.

UNITED STATES OF AMERICA, }
Western District of Texas. }

Before L. F. Price, a commissioner of the circuit court of the United States in and for said district and duly authorized by said court to issue warrants for the arrest of fugitives from justice of foreign governments, personally appeared Plutarco Ornelas, consul of the Mexican government, resident in San Antonio, Bexar county, Texas, who, being by me duly sworn, upon his oath say- that he has reasonable and credible information, which information he believes to be true, and he charges that one Ynes Ruiz, then and there a citizen of Mexico, did, on or about the 10th day of December, A. D. 1892, at the town or village of San Ygnacio, in the State of Tamaulipas, Republic of Mexico, near the Rio Grande river and nearly opposite the town of San Ygnacio, in the State of Texas, and within the jurisdiction and government of the Republic of Mexico, commit the crime of murder—that is to say, that the said Ynes Ruiz did at the time and place aforesaid unlawfully, feloneously, and of his express malice aforethought assault, shoot, and kill Captain Rutilio Segura, Lieut. Manuel Corarrubias, Sarge-nt Hilario Garcia, Corporal Jose Maria Rodriguez y Encarnacion Barrias, Privates Gumesendo Lopez, Manuel Camorillo, Fermin Mucias, Santiago Barrow, Pedro Cruz, Mateas Huerta, then and there in the peace of God and

said Republic and then and there residents and citizens of said Republic of Mexico; and affiant further deposes and says that the aforesaid Ynes Ruiz did then and there at the time and place aforesaid, with and by the assistance of divers other persons, to this affiant unknown, by force and violence and by putting in fear of bodily harm, unlawfully and feloniously kidnap, convey, and bring from and out of the territory and jurisdiction of the aforesaid Republic of Mexico into the State of Texas the following-named persons, to wit, Corporal Mariano Rendon, Privates Refugio Trillo, Tomas Reyna, Tomas Cuello, Juan Rodriguez, Natividad Sanchez, Ramon Marcias, Francisco Duron, Ygnacio Gonzalez, Dionicio Gomez, Teodoro Perez, Sabino Gonzalez, Eleno Munoz, Francisco Ybarra, Cruz Pena, Franco Morales, Elentorio Pinon, Timetio del Alto, Francisco Rameirez, Juan Cardenas, Emeliano Blanco, and Narciso Moreno y Dionicio de Anda, then and there in the peace of God and said Republic and then and there residents and citizens of the aforesaid Republic of Mexico; and said affiant further deposes and says that the said Ynes Ruiz did then and there at the time and place aforesaid commit the crimes of arson and robbery—that is to say, that the said Ines Ruiz did at the time and place aforesaid maliciously, wantonly, and feloniously set fire to, ignite, burn, and rob a certain house or barracks, in which said house or barracks were certain dead and wounded men, whose names to this affiant are unknown, and did then and there and thereby cause said house or barracks to be consumed by fire, together with the bodies of the dead and wounded men therein as aforesaid, and did then and there rob certain men and women of money, clothes, and other articles, who were then and there citizens of Mexico; that said Ines Ruiz is a fugitive from justice of the State of Tamaulipas, in the said Republic of Mexico, and did, on or about the 10th day of December, A. D. 1892, flee into the jurisdiction and territory of the United States for the purpose of seeking an asylum, and that the crimes herein charged to have been committed by the aforesaid Ines Ruiz on or about the 10th day of December, 1892, at the said town or village of San Ignacio, in the said State of Tamaulipas, and Republic of Mexico, are crimes enumerated and embraced in the treaty of extradition now in force between the said United States and the said Republic of Mexico.

Interlined on 3rd page before signing.

(Signed) P. ORNELAS,
Consul of Mexico.

Sworn to and subscribed before me this 17th day of May, A. D. 1894.

(Signed) L. F. PRICE,
Comm'r of the Circuit Court of the U. S. in and for said District.

Indorsed: 312. *In re* Ynes Ruiz. Extradition. Complaint. Filed this 17 day of May, A. D. 1894. L. F. Price, U. S. comm'r.

Complaint—Jesus Guerra.

UNITED STATES OF AMERICA, }
Western District of Texas. }

Before L. F. Price, a commissioner of the circuit court of the United States in and for said district and duly authorized by said court to issue warrants for the arrest of fugitives from justice of foreign governments, personally appeared Plutarco Ornelas, consul of the Republic of Mexico, resident in San Antonio, Bexar county, Texas, who, being by me duly sworn, upon his oath says that he has reasonable and credible information, which information he believes to be true, and he charges that one Jesus Guerra, a citizen of Mexico, did, on or about the 10th day of December, A. D. 1892, at the town or village of San Ygnacio, in the State of Tamaulipas, in the Republic of Mexico, and near the Rio Grande river, and nearly opposite the town of San Ygnacio, in the State of Texas, and within the jurisdiction and government of the aforesaid Republic of Mexico, commit the crime of murder—that is to say, that the said Jesus Guerra did at the time and place aforesaid unlawfully, feloneously, and of his express malice aforethought assault, shoot, and kill Captain Rutilio Segura, Lieut. Manuel Cororsubias, Sarge-nt Hilario Garcia, Corporal Jose Maria Rodriguez y Encarnacion Barrias, Privates Gumesendo Lopez, Manuel Camorillo, Termon Marceas, Santiago Barron, Pedro Cruz, Mateas Huerta, then and there in the peace of God and said Republic and then and there residents and citizens of the aforesaid Republic of Mexico; and affiant further deposes and says that the said Jesus Guerra did then and there and at the time and place aforesaid, with the aid and assistance of divers persons to affiant unknown, feloneously, by force and violence and by putting in fear of bodily harm, kidnap, convey, and bring from and out of the jurisdiction and territory of the aforesaid Republic of Mexico into the State of Texas the following-named persons, to wit, Corporal Mariano Rendon, Privates Refugio Trillo, Tomas Reyna, Tomas Cuello, Juan Rodriguez, Natividad Sanchez, Ramon Marceas, Francisco Duran, Ygnacio Gonzalez, Dionicio Gomez, Teodoro Perez, Sabino Gonzalez, Eleno Munoz, Francisco Ybarra, Cruz Pena, Franco Morales, Eleuterio Pinon, Timetio del Alto, Francesco Rameirez, Juan Cardenas, Emeliano Blanco, and Narciso Morino y Dionicio de Anda, then and there residents and citizens of the aforesaid Republic of Mexico; and affiant further deposes and says that the said Jesus Guerra did then and there and at the time and place aforesaid commit the crimes of arson and robbery—that is to say, that the said Jesus Guerra did, at the time and place aforesaid, maliciously, wantonly and feloneously set fire to, ignite, burn, and rob a certain house or barracks, in which said house or barracks were certain dead and wounded men whose names to affiant are unknown, and did then and there and thereby cause said house or barracks to be consumed by fire, together with the bodies of the

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dead and wounded men therein as aforesaid, and did then and there rob certain men and women of money, clothes, and other articles; that the said Jesus Guerra is a fugitive from justice of the said State of Tamaulipas, in said Republic of Mexico, and did, on or about the 10th day of December, A. D. 1892, flee into the jurisdiction of the United States for the purpose of seeking an asylum, and that the crimes herein charged to have been committed by the said Jesus Guerra are crimes enumerated and embraced in the treaty now in force between the United States and the aforesaid Republic of Mexico.

Interlined on 3rd and 1st page- before signing.

(Signed) P. ORNELAS,
Consul of Mexico.

Sworn to and subscribed before me this 17th day of May, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Indorsed: *In re* Jesus Guerra. Extradition. Complaint. Filed this 17 day of May, 1894. L. F. Price, U. S. comm'r.

Warrant of Arrest—Juan Duque.

UNITED STATES OF AMERICA, }
Western District of Texas. }

The President of the United States of America to the marshal of the United States in said district, Greeting:

Whereas complaint has been made under the oath of Plutarco Ornelas, consul of the Republic of Mexico, resident in San Antonio, Bexar county, Texas, before L. F. Price, a commissioner of the circuit court of the United States in and for said district and duly authorized by said court to issue warrants for the arrest of fugitives from justice of foreign governments, that one Juan Duque did, on or about the 10th day of December, A. D. 1892, at a town or village called San Ygnacio, in the State of Tamaulipas, Re-
17 public of Mexico, and within the jurisdiction and government of said Republic of Mexico, commit the crimes of murder, arson, kidnapping, and robbery—that is to say, that the said Juan Duque did at the time and place aforesaid unlawfully, feloneously, and of his express malice aforethought assault, shoot, and kill Rutilio Segura and nine other persons, whose names are set out in the affidavit made against said Juan Duque and now on file in the office of and with United States Commissioner L. F. Price, before whom said affidavit of complaint was made; that said Juan Duque did at the time and place aforesaid maliciously and feloneously commit the crimes of arson and robbery by setting fire to and igniting a certain house or barracks in which were a number of dead and wounded men, whereby the said house or barracks, together with the dead and wounded men therein, were burned and con-

sumed and robbed; that said Juan Duque did at the time and place aforesaid, with the aid and assistance of divers other persons to said affiant unknown, by force and violence and by putting in fear of bodily harm, unlawfully and feloneously kidnap, convey, and bring from and out of the jurisdiction and territory of the said Republic of Mexico into the State of Texas one Mariano Rendon and twenty-one other persons, whose names are fully set out in the aforesaid sworn complaint made against the said Juan Duque as aforesaid and now on file with United States Commissioner L. F. Price as aforesaid; that said Juan Duque is a fugitive from justice of the said State of Tamaulipas, in the said Republic of Mexico, and did, on or about the 10th day of December, A. D. 1892, flee into the jurisdiction of the United States for the purpose of seeking an asylum, and that the crimes charged to have been committed by said Juan Duque are crimes enumerated and embraced in the treaty of extradition now in force between the United States and said Republic of Mexico:

These are therefore to command you forthwith to apprehend the aforesaid Juan Duque and bring him before said commissioner to answer the premises and further to be dealt with according to law and the provisions of said treaty.

In witness whereof I have hereunto set my hand and seal, at office, in San Antonio, this 20 day of June, 1894.

(Signed) L. F. PRICE,
Commissioner of the Circuit Court of the United States, Western District Texas.

[SEAL.]

Came to hand the 20th day of June, 1894, and executed the 20th day of June, 1894, by arresting Juan Duque and placing him in the Bexar county jail, at San Antonio, Texas.

RICHARD C. WARE,
U. S. Marshal,
By F. H. LANCASTER, *Deputy.*

Indorsed: 319. *In re* Juan Duque. Extradition. Warrant of arrest. Issued this 20 day of June, 1894. L. F. Price, U. S. comm'r.

Warrant of Arrest—Ynez Ruiz.

UNITED STATES OF AMERICA, }
Western District of Texas. }

The President of the United States of America to the marshal of the United States for said district, Greeting:

18 Whereas complaint has been made under the oath of Plutarco Ornelas, consul of the Republic of Mexico, resident in San Antonio, Bexar county, Texas, before L. F. Price, a commissioner of the circuit court of the United States in and for said district and duly authorized by said court to issue warrants for the arrest of fugitives from justice of foreign governments, that one Ynes Ruiz did, on or about the 10th day of December, A. D. 1892,

at a town or village called San Ygnacio, in the State of Tamaulipas, in the Republic of Mexico, and within the jurisdiction and government of said Republic of Mexico, commit the crimes of murder, arson, kidnapping, and robbery—that is to say, that the said Ines Ruiz did at the time and place aforesaid unlawfully, feloneously, and of his express malace aforethought assault, shoot, and kill Rutilio Segura and nine other persons, whose names are set out in the affidavit made against said Ines Ruiz and now on file in the office of and with United States Commissioner L. F. Price, before whom said affidavit of complaint was made; that the said Ines Ruiz did at the time and place aforesaid maliciously and feloneously commit the crimes of arson and robbery by setting fire to and igniting a certain house or barracks in which were a number of dead and wounded men, whereby the said house or barracks, together with the dead and wounded men therein, were burned and consumed & robbed; that said Ines Ruiz did at the time and place aforesaid, with the aid and assistance of divers other persons to this affiant known, by force and violence and by putting in fear of bodily harm, unlawfully and feloneously kidnap, convey, and bring from and out of the jurisdiction and territory of the said Republic of Mexico into the State of Texas one Mariano Rendon and twenty-one other persons, whose names are fully set out in the aforesaid sworn complaint made against the said Ines Ruiz as aforesaid and on file with United States Commissioner L. F. Price as aforesaid; that the said Ines Ruiz is a fugitive from justice of the State of Tamaulipas, in said Republic of Mexico, and did, on or about the 10th day of December, A. D. 1892, flee into the jurisdiction of the United States for the purpose of seeking an asylum, and that the crimes charged to have been committed by the said Ines Ruiz are crimes enumerated and embraced in the treaty of extradition now in force between the United States and the aforesaid Republic of Mexico:

These are therefore to command you forthwith to apprehend the aforesaid Ines Ruiz and bring him before said commissioner to answer the premises and further to be dealt with according to law and the provisions of said treaty.

In witness whereof I have hereunto set my hand and seal, at office, in San Antonio, in said district, this 17 day of May, A. D. 1894.

(Signed) L. F. PRICE,
Comm'r of the Circuit Court of the United States in said District.

Came to hand on this the 18th day of May, 1894, at San Antonio, Texas, and was executed on the 19th day of May, 1894, at San Antonio, Texas, by arresting the within-named defendant, Inez Ruiz, and taking him before L. F. Price, U. S. commissioner, as by this writ directed.

(Signed) R. C. WARE,
U. S. Marshal, W. Dist. Texas.

Indorsed: 312. *In re* Ines Ruiz. Estradition. Warrant of arrest. Issued this 17 day of May, 1894. L. F. Price, U. S. comm'r.

19 *Warrant of Arrest—Jesus Guerra.*

UNITED STATES OF AMERICA, }
Western District of Texas. }

The President of the United States of America to the marshal of the United States for said district, Greeting:

Whereas complaint has been made under the oath of Plutarco Ornelas, consul of the Republic of Mexico, resident at San Antonio, Bexar county, Texas, before L. F. Price, a commissioner of the circuit court of the United States in and for said district and duly authorized by said court to issue warrants for the arrest of fugitives from justice of foreign governments, that one Jesus Guerra did, on or about the 10th day of December, A. D. 1892, at a town or village called San Ygnacio, in the State of Tamaulipas, in the Republic of Mexico, and within the jurisdiction and government of said Republic of Mexico, commit the crimes of murder, arson, kidnapping, and robbery—that is to say, that the said Jesus Guerra did at the time and place aforesaid unlawfully, feloneously, and of his express malace aforethought assault, shoot, and kill Rutilio Segura and nine other persons, whose names are set out in the affidavit made against said Jesus Guerra and now on file in the office of and with United States Commissioner L. F. Price, before whom said affidavit of complaint was made; that the said Jesus Guerra did at the time and place aforesaid maliciously and feloneously commit the crimes of arson and robbery by setting fire to and igniting a certain house or barracks, in which said house or barracks were a number of dead and wounded men, whereby said house or barracks, together with the dead and wounded men therein, were burned, consumed, and robbed; that the said Jesus Guerra did at the time and place aforesaid, with the aid and assistance of divers other persons to affiant unknown, by force and violence and by putting in fear of bodily harm, unlawfully and feloneously kidnap, convey, and bring from and out of the jurisdiction and territory of the said Republic of Mexico into the State of Texas one Mariano Rendon and twenty-one other persons, whose names are fully set out in the aforesaid sworn complaint made against the said Jesus Guerra as aforesaid and on file with United States Commissioner L. F. Price as aforesaid; that said Jesus Guerra is a fugitive from justice of the said State of Tamaulipas, in said Republic of Mexico, and did, on or about the 10th day of December, A. D. 1892, flee into the jurisdiction of the United States for the purpose of seeking an asylum, and that the crimes charged to have been committed by the said Jesus Guerra are crimes enumerated and embraced in the treaty of extradition now in force between the United States and the said Republic of Mexico:

These are therefore to command you forthwith to apprehend the said Jesus Guerra and bring him before said commissioner to

answer the premises and further to be dealt with according to law and the provisions of said treaty.

In witness whereof I have hereunto set my hand and seal of office, at San Antonio, Texas, this 17 day of May, 1894.

(Signed) L. F. PRICE,
Commissioner of the Circuit Court of the United States in and for said District.

Came to hand on this the 18th day of May, 1894, at San Antonio, Texas, and was executed on this the 19th day of May, 1894, by arresting the within-named defendant, Jesus Guerra, and taking him before U. S. Commissioner L. F. Price, as by this writ directed.

R. C. WARE,
U. S. Marshal, W. D. Texas.

20 Indorsed: *In re* Jesus Guerra. Extradition. Warrant of arrest. Issued this 17 day of May, 1894. L. F. Price, U. S. comm'r.

Defendant's Demurrer to Complaint—Inez Ruiz.

In Re vs. INEZ RUIZ. No. 312.

Before L. F. Price, U. S. commissioner, at San Antonio, Texas, for the circuit court of the western district of Texas.

Now comes defendant, Inez Ruiz, by counsel, and demurs to the complaint filed herein against him, and says the same is insufficient in law—

1st. Because the charge of murder is not properly defined, nor whether defendant acted as principal, accessory, or accomplice.

2nd. Because the complaint sets out that the act was committed by defendant and divers others not known to affiant, showing from the acts committed that the killing was done in a pitched battle between contending organized forces on both sides and could not be murder, but, if any grade, that of manslaughter, if any crime at all.

3rd. Because the complaint alleging the facts shows a want of feloneous intent, with malice aforethought, to kill the person or persons alleged to have been killed at the time and place named in the complaint.

4th. Because the complaint nowhere alleges that any human being was killed or those dead were ever in being.

5th. Because the complaint is duplicitous and vague, alledjing a multiplicity of crimes and none of them properly defined under the law known nor under the common law, and defendant is not put on notice to which crime he must plead, whether to one or all.

6th. Because the complaint does not properly charge the crime of arson, nor whether defendant acted as principal, accessory, or accomplice, though said complaint sets forth that others acted with him.

7th. Because the complaint does not properly define the crime of

kidnapping as required under the law and the treaty by which defendant is demanded to be extradited nor under any *any* treaty whatever.

8th. Because the complaint does not properly define the crime of robbery under the law and under the treaty by which defendant is demanded for extradition, nor that defendant is demanded under the treaty existing between the United States of America and the Republic of Mexico, nor which treaty made by & between what contracting parties.

9th. Because the complaint fails to affirmatively state that defendant is a citizen of the Republic of Mexico and was at the time of the commission of the offenses charged in said complaint, and fails to show jurisdiction of defendant or the subject-matter of the complaint.

10th. Because the complaint fails to state that the commissioner or officer before whom the extradition is sought has power and authority to issue the same or has jurisdiction of defendant.

11th. Because the complaint shows that the acts committed,
21 if committed at all, were done while in the act of revolution against the authorities of the Republic of Mexico and were committed while in a conflict with the soldiers of the Mexican government, and that if defendant was engaged in such conflict with others it was an act of war, and that defendant is sought as a political prisoner against the government of Mexico and to be dealt with as such and not according to the rules and usages of civilized government, but according to the usages and laws of war, and prays that the said complaint be held for naught & def't discharged without costs and a day.

(Signed) W. H. BROOKER,
Attorney for Inez Ruiz.

Indorsed: No. 312. *In re* Inez Ruiz. Extradition. Defendant's demurrer to complaint. Filed June 2, 1894. L. F. Price, U. S. comm'r.

Defendant's Demurrer to Complaint—Jesus Guerra.

In Re vs. JESUS GUERRA. No. 313.

Before L. F. Price, U. S. commissioner, at San Antonio, Texas, for the western district of Texas.

Now comes defendant, Jesus Guerra, by counsel, and objects & demurs to the complaint filed herein against him, and says the same is insufficient in law—

1st. Because the charge of murder is not properly defined, nor whether def't acted as principal, accessory, or accomplice.

2nd. Because the complaint sets out that the act was committed by defendant and divers others not known to affiant, showing from the acts committed that the killing was done in a pitched battle

between contending organized forces on both sides and could not be murder, but, if any grade of killing, that of manslaughter, if any crime at all.

3rd. Because the complaint alleging the facts shows a want of felonious intent, with malice aforethought, to kill the person or persons alleged to have been killed at the time and place named in the complaint.

4th. Because the complaint nowhere alleges that any human being was killed or those dead were ever in being.

5th. Because the complaint is duplicitous and vague, alleging a multiplicity of crimes and none of them properly defined under the law known nor under the common law, and defendant is not put on notice to which crime he must plead, whether to one or all.

6th. Because the complaint does not properly charge the crime of arson, nor whether defendant acted as principal, accessory, or accomplice, though said complaint sets forth that others acted with him.

7th. Because the complaint does not properly define the crime of kidnapping as required under the law and the treaty by which defendant is demanded to be extradited nor under any law or treaty whatever.

8th. Because the complaint does not properly define the crime of robbery under the law and under the treaty by which def't is demanded for extradition, nor that the def't is demanded under the treaty existing between the U. S. of America & the Republic of Mexico, nor which treaty made by & between what contracting parties.

22 9th. Because the complaint fails to affirmatively state that defendant is a citizen of the Republic of Mexico and was at the time of the commission of the offenses charged in said complaint, and fails to show jurisdiction of defendant or the subject-matter of the complaint.

10th. Because the complaint fails to state that the commissioner or officer before whom the extradition is sought has power and authority to issue the same or has jurisdiction of def't, or that the person making the complaint has authority to do so.

11th. Because the complaint shows that the acts committed, if committed at all, were committed while in the act of revolution against the authorities of the Republic of Mexico and were committed while in conflict with the soldiers of the Mexican government, and that if defendant was engaged in such conflict with arms it was an act of war, and that defendant is sought as a political prisoner against the government of Mexico and to be dealt with as such and not according to the rules and usages of civilized governments, but according to usages and laws of usurpation, tyranny, and war.

And prays that the said complaint be held for naught and defendant discharged.

(Signed) W. H. BROOKER,
Attorney for Jesus Guerra.

Indorsed: No. 313. *In re vs.* Jesus Guerra. In extradition. Defendant's demurrer to complaint. Filed this 22nd day of June, 1894. L. F. Price, U. S. comm'r. W. H. Brooker.

Defendant's Exception to the Warrant for Extradition—Inez Ruiz.

In Re INEZ RUIZ. No. 312.

Before L. F. Price, U. S. commissioner for circuit court of the U. S. at San Antonio, Tex.

Now comes the defendant, Inez Ruiz, in this cause and objects to the sufficiency of the warrant under and by which he is arrested for the following reasons:

1st. Because the warrant does not show on its face the authority to issue it, nor that a requisition has been duly made by the government of the Republic of Mexico upon the Government of the U. States of America and the authority of the latter obtained for the arrest.

2nd. Because the warrant does not show on its face the crimes for which defendant is held, nor any specific facts going to show them, nor giving defendant any data by which to put him on notice of the crime or crimes for which he is to be extradited.

3rd. Because the warrant does not show on its face that any crime has been committed by defendant at any time *nor* place, nor giving specific facts showing that any crime had been committed by defendant on or about the 10th day of December, 1892, at San Ygnacio, Mexico, nor at any other time *nor* place.

4th. Because the warrant shows on its face a discrepancy in the charges as made in the complaint filed against def't and those contained in the warrant of arrest.

5th. Because the warrant nowhere on its face defines the crimes of murder, arson, robbery, *nor* kidnapping, nor faithfully charges defendant with them or with any of such crimes.

6th. Because the warrant shows on its face that it is duplicitous and multitudinous and an attempt to connect defendant with some crime mentioned in the catalogue enumerated in the treaty 23 made and entered into by and between the governments of Mexico and the United States of America and should not prevail.

7th. Because the warrant shows on its face that the acts which are charged to defendant were committed, if committed at all, while in open revolt and in action against the soldiers and armies of the Republic of Mexico and in hostile engagement and the result of war, and that defendant is sought as a political prisoner of that revolution and to be tried and adjudged as such, not by the rules and customs of civilized nations, but by the dictum of a military autocracy more severe than the iron rule of the Czar of all the Russias, and not by the civil code of any country, nor by a jury of his countrymen, nor by his peers, nor by any civil court known to

civilization, and defendant prays that the warrant be held for naught, and that d'f't be discharged without costs and a day.

(Signed) W. H. BROOKER,
Attorney for Inez Ruiz.

Indorsed: No. 312. *In re* Inez Ruiz. Extradition. Def't's exception to the warrant for extradition. Filed June 2, 1894. L. F. Price, U. S. comm'r.

Defendant's Exception to the Warrant of Arrest—Jesus Guerra.

In Re vs. JESUS GUERRA. No. 313.

Before L. F. Price, U. S. commissioner for circuit court of U. S. at San Antonio, Tx.

Now comes the defendant, Jesus Guerra, in this cause and objects to the sufficiency of the warrant under and by which he is arrested for the following reasons:

1st. Because the warrant does not show on its face the authority to issue it, nor that a requisition has been duly made by the government of the Republic of Mexico upon the Government of the U. S. of America and the authority of the latter obtained for the arrest.

2nd. Because the warrant does not show on its face the crimes for which defendant is held, nor any specific facts going to show them, nor giving defendant any data by which to put him on notice of the crime or crimes for which he is to be extradited.

3rd. Because the warrant does not show on its face that any crime has been committed by defendant at any time *nor* place, nor giving specific facts showing that any crime had been committed by defendant on or about the 10th of December, 1892, at San Ygnacio, Mexico, nor at any other time *nor* place.

4th. Because the warrant shows on its face a discrepancy in the charges as made in the complaint filed against defendant and those contained in the warrant of arrest.

5th. Because the warrant of arrest nowhere on its face defines the crimes of murder, arson, robbery, *nor* kidnapping, nor faithfully charges defendant with them or either of such crimes.

6th. Because the warrant of arrest shows on its face that it is duplicitous and multitudinous and an attempt to connect def't with some crime mentioned in the catalogue enumerated in the treaty made and entered into by and between the governments of Mexico and the U. S. of America.

7th. Because the warrant shows on its face that the acts
24 which are charged to defendant were committed, if committed at all, while in open revolt and in action against the soldiers and armies of the Republic of Mexico and in hostile engagement and the result of war, and that defendant is sought as a political prisoner of that revolution and to be tried and adjudged as such, not by the rules and customs of civilized nations, but by the dictum of a military autocracy more severe than the iron rule of the Czar

of Russia, and not by the civil code of any country, nor by a jury of his peers, nor of his countrymen, nor by any civil court known to civilization, and defendant prays that the warrant be held for naught, and that defendant be discharged.

(Signed) W. H. BROOKER,
Attorney for Jesus Guerra.

Indorsed: No. 313. *In re vs.* Jesus Guerra. Def't's exceptions to the warrant of arrest. Filed this 22 June, A. D. 1894. L. F. Price, U. S. comm'r. W. H. Brooker.

25 *Testimony of Francisco Ramirez, Witness for Prosecution.*

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JUAN DUQUE.

In extradition. Witness for prosecution.

Testimony of Francisco Ramirez.

Witness said: My name is Francisco Ramirez. I am twenty-six years old. I know something about the fights at San Ygnacio; prisoner was there then. I was with a company of Mexican soldiers under Capt. Segura. We were camped there. There were forty men in my company. We were stationed there in a barracks. The barracks were mesquite trees and woods. We were in those barracks on the 10th of December, 1892, and had a fight with the bandits there that day. The bandits were 130 in number; they came from the north side of the river; they were armed and used their arms against the soldiers. The bandits killed thirteen; they wounded some and took some prisoners. The fight lasted two hours and a half. When the bandits took them prisoners they took them about 200 paces off, where all the prisoners and wounded were gathered. After the fight the bandits came to this side and brought with them Damasio Martines, Refugio Martines, and Pedro Salinas. There were about twenty men arrested at San Ygnacio after the fight. The barracks were burnt up by the bandits; about five people were burnt in the barracks; they were wounded and were burnt inside of the barracks. The bandits took all of the government property and some of the citizens' property. They brought the property to this side, horses and all, but do not know what they did with it. I have been in the army for more than five years. I saw the defendant at San Ygnacio during the fight. I saw him with the other men coming from the Martinienio. He and Chacon, another man, had Damasio Martinez as a prisoner. He was horseback and armed. Juan Duque was with the party that attacked San Ygnacio. He then mounted one of the government horses and came over to this side. I do not know what he did with the horse he had before. I did not see him while he was coming over, but saw him on this side. I have not seen him from that time till

he arrived here in court. After the men were brought to this side they staid on the banks of the river.

Cross-examination :

Witness said : I recognized several prisoners in the fight. I saw Baldomero Palacio, Francisco Benevidas, Herero Sais, Inez Ruiz, Calas Caveras, and Jesus Guerra. I did not know them till I saw them at the fight. I did not know Francisco Benevidas before. I knew Baldomero Palacio, Herereo Sais, and Maximo Martinez before the fight. I saw these men with the prisoners. Witness was told that he had already sworn that he saw these men in the fight, now to tell what part of the fight they were engaged in. I saw Inez Ruiz about five paces off. I saw Juan Duque and Jesus Guerra with some other men coming from the Martinienio. It was after the fight that we were captured. I saw Juan Duque and Guerra about five paces off. I could not be on the lookout for everybody during the fight; but after the fight they were all there, nobody left, but I did not identify these men during the battle, and do not remember any others. I never heard Rafael Martinez or Jose Cassiano's names mentioned, only the prisoners. The bandits fired the first shot, and the soldiers fired back as soon as they saw the bandits coming and kept the firing up until their ammunition gave out. The bandits took the prisoners about 200 paces off, where they turned them loose; then the soldiers and the wounded
26 passed to this side voluntarily. I saw two persons of the bandits killed, and one house besides the barracks burnt. The house belonged to Basillio Martinez, and was about a pace from the barracks. Bassillio Martinez kept goods for sale for the soldiers in the house. The bandits took property from the citizens; they took clothes, they took everything that Bassillio Martinez had. I saw them take things that did not belong to him; saw them take money from families and soldiers' wives. I do not know who burnt the house. I have been in the army five years. I was sent from Aquas Calientes, my citizenship. Before I went to the army I was at Silado de la Victoria.

Q. Why were you sent to the army?

Prosecuting counsel objects, as it is irrelevant and impertinent to the case.

A. Because I was a stranger, I think.

He was then asked if he was forced to go into the army and he said he was.

Q. Are not the soldiers in the Mexican army most all criminals?

Prosecuting counsel objects; it is irrelevant, incompetent, and not necessary to the case; can't discredit this witness.

Witness said the soldiers in the Mexican army might be more voluntary than forced. Witness was then asked if the soldiers in the Mexican army were not most all criminals. He said he thought it, but, being a stranger, was not certain. Defendant said that,

being there five years, the witness ought to know something about it. He then asked if the soldiers were guarded in the army. He said some were and some were not. Witness said he did not know anything about the trial carried on down there about the bandits.

Q. Were they tried by the military?

Prosecuting counsel objects, as there is better evidence than that, and it has nothing to do with this trial can be proved by the statutes of Mexico, not by common soldiers.

A. No, sir.

Witness said: The Martinienio is about half a league from San Ygnacio. There are more houses there than at San Ygnacio. Those houses were not burnt up by the bandits. Besides the house I told about at San Ygnacio and the barracks there were several little jackals, belonging to the soldiers' wives, burnt up. The bandits were not organized like the Mexican soldiers; they did not have uniforms and did not have order; they all talked together; you could not tell who talked. They did not march in file like the soldiers—went like bandits. A bandit is one who robbs and kills and assassinates. A revolutionist has some standard. Bandits have no order and revolutionists have. Bandits fight anything that comes up. The bandits only fought against the soldiers of the Mexican government. The bandits robbed citizens over there, he had already told them. I had only heard the name of Catarino Garza's revolution over there. We heard of the revolution waging war against Mexico, and that is the reason we went to the edge of the river. We came from Aquas Calientes. Several regiments came to the front, but it was a small force—about five hundred men in each regiment. I do not know why we came down there; we were sent there and we went. We had no orders to fire on them, and had orders to arrest them according as to how they behaved. He had orders not to let any come out of the barracks when he was on guard. Capt. Segura had about thirty men under his command armed with carbines and sabres. Benevidas' men were armed with carbines and pistols.

Re-examination:

Witness said: Captain Segura was burnt up; he was killed at the finishing. The bandits were not in uniform and had no banners. The officers were not distinguished by any marks. There was no demand made to surrender before the fight commenced. The citizens brought to this side were Refugio Martinez, Damasio Martinez, and Pedro Salinas. They were citizens of Mexico. They were forced to come to this side of the river.

(Signed) FRANCO. RAMIREZ.

27 Subscribed and sworn to before me this 12th day of July, 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Dario Hernandez, Witness for Prosecution.

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JUAN DUQUE.

In extradition. Witness for prosecution.

Testimony of Dario Hernandez.

Witness said: My name is Dario Hernandez. I am 38 years old. I live at San Ygnacio, Zapata county, Texas. I call myself an American citizen because I have lived in the county for 25 years. I know Juan Duque by sight. That is he sitting over there (witness points to the prisoner). I first saw him here in Texas. I saw him on the 10th of December, '92. I was in the San Ygnacio fight. Juan Duque was there. He was armed and was on Benevidas' staff. Benevidas was the leader of the attack on San Ygnacio. There were 100 and some odd men in the party. I was with them. We crossed over the river, going from Texas to Mexico, about nine or ten o'clock in the morning on the 10th of December, '92. We crossed above the ranch of San Ygnacio about four miles. We were on horseback and were armed. Our leader was Francisco Benevidas. I saw the defendant there. We attacked the ranch about eleven or twelve o'clock; the attack was made shooting. We advanced to the barracks where the soldiers were on foot. The result of the fight was arson. I do not know who set it on fire.

Q. Was it set on fire by the Benevidas men or by the soldiers of the government?

Defending counsel objects because he said he did not know who set it on fire.

A. I do not know whether one on the inside or outside set it on fire. There were about two of the outside party killed and about four or five of the inside party.

Witness said: There were four wounded of the outside party and two dead. The ones that were dead were Ismatiel Tyrena and Nevas Longorio. Blas Hinojosa was wounded, and do not remember the others. There were about sixteen men of the inside party taken prisoners. They were Vicenti Martinez, Bassillio Martinez, Refugio Martinez, Pedro Salinas, Stefan Garcia, Lucio Garcia, Juan Martinez, and Alguna Martinez. They brought only three to this side. They were Damasio Martinez, Refugio Martinez, and Pedro Salinas. Damasio Martinez was kept a prisoner with them about a month, and the others only about eight or ten days. I did not see any arms or horses or saddles taken. I have known the prisoner for eleven or twelve years. I saw him in December, '91; saw him again in the latter part of May, and saw him again in '92. I am sure I saw him at San Ygnacio. He was on Benevidas' staff. He

was mounted and armed. I staid with the bandits till the last of December, and Duque was with them yet.

Cross-examination:

Witness said: I saw Catarina Garza once. I was in Catarina Garza's command; do not know who was next in command to Garza. I was only with the people for nine days in '9*k*, and joined them again in '92. Some of them were the same people and they had the same commander. I live at San Ygnacio, Texas; have lived there since '69. I have known Duque for eleven or twelve years. I went from San Antonio to Laredo with him some time ago.

28 Q. What were the aims, objects, and purposes of the Garza revolution?

Prosecuting counsel objects; it is irrelevant and immaterial.

A. I do not know; heard them talking, but do not remember what they said. I do not know, because two days after I joined the army they crossed to the other side. We thought that Garza was still with us. I do not know what was the object of Benevidas moving across the river. We only fought against the soldiers of the Mexican government.

Q. How were Garza's men organized, in companies and regiments?

Prosecuting counsel objects; it is immaterial and irrelevant.

A. Into companies.

Q. Colonels and generals in the army?

Prosecuting counsel objects for the same reason stated above.

A. I do not know. The principal man there was Garza. Garza was recognized as the general in command. I was captain in the army; in the troops under Benevidas, not under Garza. We crossed the river to fight against the soldiers of the Mexican government.

Q. Were you not present when Garza presented a flag to his men?

Prosecuting counsel objects; it is immaterial and irrelevant.

A. No, sir.

I was not present when either Garza or Benevidas made a speech before they went across the river. I had a pistol at the battle of San Ygnacio, but I did not go into the fight. I staid outside with the staff, and I gave my carbine to a boy who did not have any. The fight lasted about an hour and a half. There was a good deal of firing on both sides. We had no orders not to interfere with the citizens on the other side of the river, but we knew it naturally and did not interfere with them. I gave myself up to the authorities in January after the fight in December, after I came over to this side. I was indicted in the court above as a Garza revolutionist, but I turned State's evidence and got my liberty. I thought I was guilty as much as the others. That is the reason I gave myself up.

Re-examination:

Witness said: I do not know whether the movement of Benevidas was distinct from that of Garza, but that was his understanding; never heard that Garza was anywhere near at the fight of San Ygnacio. He did not have anything to do with it. I had not seen Garza for more than a year before that.

(Signed) DARIO HERNANDEZ.

Subscribed and sworn to before me this 12th day of July, 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Librado Guitierez, Witness for Prosecution.

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JUAN DUQUE.

In extradition. Witness for prosecution.

Testimony of Librado Guitierez.

Witness said: My name is Librado Guiterez. I live in Zapata county. I am 20 years old. I was at San Ygnacio on the day that Capt. Segura was killed there. I was with the party of Benevidas. I went over with Benevidas. I know Juan Duque a little.
29 I saw him at San Ygnacio on that day. He passed over the river with us. I do not know whether he was there at the assault or not. I saw him after the assault. I saw him come from the lower part of the ranch. He was on horseback. I do not know what he was doing. He was armed. He had a carbine in his hand. He was not shooting. I do not remember who was near him, but he came into the ranch with Benevidas' men. Juan Duque came back to this side with the party. He was still with the men when I left, but I left on the same day of the return to this side. I do not know what position he held. They called him Duque. I have known him for a little time before the fight at San Ygnacio. I first saw him on the other side, in Zapata county, in the camp of Francisco Benevidas.

Cross-examination:

Witness said: Garza was general, so they said. The men followed him; they obeyed him as a commander. I do not know whether Juan Duque was a prisoner over there or not. I do not know where Duque lives. I joined the revolutionists in '91 and went and remained with them at my will. All together I was with them for about a year. I do not know what were the aims of Benevidas' raid any more than that we were to fight against the soldiers of the Mexican government—against Porfirio Diaz. I was there, but did not fight. Francisco Benevidas fought against the soldiers of the

Mexican government. I do not know whether they fought with anybody else or not, but do know they fought with the soldiers. I do not remember whether they robbed any citizens or not.

Re-examination:

Witness was asked if Juan Duque went voluntarily when he went over to the other side with the revolutionists. He said he thought he went voluntarily. On the other side he was free, but do not know whether he had a commission or not. They brought some prisoners from the other side to this side, but Juan Duque was not a prisoner.

(Signed) LIBRADO GUTIERREZ.

Subscribed and sworn to before me this 12th day of July, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Lucio Cantu, Witness for Prosecution.

UNITED STATES OF AMERICA,
Western District of Texas.

In Re JUAN DUQUE.

In extradition. Witness for prosecution.

Testimony of Lucio Cantu.

Witness said: My name is Lucio Cantu. I am 27 years old. I live in Duval county, in this State. On the 10th of December, 1892, I was on this side in the morning and at San Ygnacio the greater portion of the day. I know Juan Duque; have known him for two years. I saw him at San Ygnacio on the 10th of December, 1892. He came there after the fight. He was not at San Ygnacio at the fight, but came up afterwards with about 10 men. Inez Ruiz and others were with him.

Q. Was Baldomero Palacio there?

Defending counsel objects; it is intimating to the witness.

Q. State whether or not Baldomero Palacio was there or not.

A. I know a man by that name of Baldomero. I think his name is Palacio. He — a short man.

Juan Duque went over the morning of the raid with Benevidas' men; he went armed with a carbine and on horseback. I do not know whether he went voluntarily or not; did not see any one compelling him to go. After the fight Juan Duque came up with ten other men. One of the prisoners they brought was this old gentleman here, Damasio Martinez. Duque was armed and on horseback when he came up. Juan Duque came over to this side after the fight. I do not know how long he staid with

Benevidas' men, but it was some days. He was armed at that time. I first saw Juan Duque in the last days of 1891. I am sure that this is the same man that was at San Ygnacio that day.

Cross-examination:

Witness said: I think Francisco Benevidas commanded at San Ygnacio; we thought he did. The word was passed to go over the river and we went. I know Julian Flores; he was not along.

Q. Was Julian Flores a commander in the Garza revolution; if so, what rank did he have?

Prosecuting counsel objects to that question. The witness has just testified that Julian Flores was not at San Ygnacio; consequently the evidence is irrelevant and immaterial.

Q. Was Julian Flores commander in the Garza revolution?

—. There were two Julians; one a one-eyed man, who did not command, and there was another man by the name of Julian that was connected with the company as a major.

Q. Were Benevidas and Flores commanders in the Garza revolution?

Prosecuting counsel objects for the same reason stated above.

A. Yes, sir.

I do not remember exactly how long I was with the revolutionists, but from time to time. I think it was about eight months.

I was not there when Julian Flores arrested Juan Duque, but when I came back I found him there. They had him prisoner at that time. The battle of San Ygnacio lasted about two hours. It was between the revolutionists and the soldiers of Mexico. We did not go over there for the purpose of killing and wounding anybody or robbing them, but do not know whether they robbed any one or not. During the fight Juan Duque was not there; do not know where he was; but he came up after the fight. Witness was asked if he would not have been shot if he had refused to go. He said he did not know, but some staid on this side. He did not know whether they staid voluntarily or not. I do not know where Juan Duque lives.

Re-examination:

Witness was asked if those men that staid on this side were shot. He said no; they were still in good health. When I first saw Juan Duque it was at a place called Placa, at Garcia, near the ranch of the Colorado, Zapata county, in December, '91, about a year before the San Ygnacio fight.

(Signed) LUCIO CANTU.

Subscribed and sworn to before me this 12th day of July, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Pablo Longorio, Witness for Prosecution.

UNITED STATES OF AMERICA, }
Western District of Texas, }

In Re JUAN DUQUE.

In extradition. Witness for prosecution.

Testimony of Pablo Longorio.

31 Witness said: My name is Pablo Longoria. I am 39 years old. I live in Zapata county. I was here in this house, in attendance on the U. S. court, on the 10th of December, 1892. I know Juan Duque; I have known him for about 25 years. I first knew him in Mia; he was about 15 or 16 years old when I first knew him; he lived in Mia quite awhile. I knew his father; he lived in Mia also. I do not know where he lives now. I have seen Juan Duque both on this side and the other side of the river. On the other side of the river he lived at Mia. I do not know where he lives now.

Q. What business does Juan Duque follow?

Defending counsel objects to that because it has nothing to do with the case.

A. I do not know what occupation he had. I have seen Juan Duque oftener on the other side of the river than on this side. I saw him at Mia and Camargo, in the State of Tamaulipas. I only know where Juan Duque was born from the voice of the people; they said he was born at Mia. I never heard his father say so.

Defending counsel objects to hearsay.

I calculate Juan Duque to be about 32 or 33 years of age, six or eight years younger than I am. The last time I saw his father he was living at Mia.

Cross-examination:

Witness said: I never asked his father where this boy was born. I have never asked anybody, but I speak from the voice of the people. I heard lots of my relatives say so—my grandmother and father and aunts and uncles. I have not conversed with anybody upon the subject of where he was born since the fight on the Rio Grande. No; we have not conversed about it since I have been up here. I have lived in different places since I was born; in some places more than five years and in some places less than five years. I lived more than five years in Guerrero. I was about thirteen years of age when I left Guerrero. I then moved to Mia. I lived in Mia more than five years, until the death of my mother. I then moved to Guerrero. I have never lived at Mia since then, but I have visited there; I have plenty of relatives there. I work at whatever I can get to do. Now I am occupied right here.

Witness was asked if he had done anything in the world for the last two years but attend the Federal court as a witness for the Mexican government.

He said, Yes; he had been to see his animals.

Q. How many animals do you own?

Prosecuting counsel objects; it is immaterial and irrelevant.

A. I do not know; there are animals that die from time to time; don't know till he goes to pay the taxes. I have both horses and cows. I pay the taxes in Duval county. For the last two years I have not paid the taxes; the man that takes care of them pays it. Don Marciel Hinojosa and a brother of mine have charge of them. My brother lives at the ranch of Philadelphia. Don Hinojosa lives in the same county, at the ranch of Palito Blanco. Hinojosa pays the taxes for 28 cows he has in his possession. He has paid it for 5 years. His P. O. is San Diego, Duval Co. A telegram will reach him quicker than a letter.

his
PABLO x LONGORIO.
mark.

Subscribed (by mark) and sworn to before me this 12 day of July, A. D. 1894.

(Signed) L. F. PRICE, *U. S. Com'r.*

32 *Testimony of Refugio Martinez, Witness for Prosecution.*

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JUAN DUQUE.

In extradition. Witness for prosecution.

Testimony of Refugio Martinez.

Witness said: My name is Refugio Martinez. I am thirty years old. Bassillio Martinez is my father. I live in Guerro. I was born there. I saw the prisoner at San Ygnacio, Mexico, on the 10th of December, '92. He was there amongst the men—amonst the bandits. Some of the leaders of those bandits were Maximo Martinez, Baldomero Palacio, Rafael Ramirez, Francisco Benevidas, Mario Hernandez, Tomas Cuellar, Procopio Guitierez—that is all I remember. I saw the prisoner with the people, armed and on horseback, standing with the men after the fight, where they took me prisoner in the woods. I saw him also on this side when they brought me over as prisoner. They kept me prisoner about eight days, and I saw the prisoner nearly every day. He did not guard the prisoners, but he was there with the men. About 140 or 130 men made the assault on San Ygnacio; they were armed with carbines and guns; most all of them were twelve and sixteen shooters. I did not notice what kind of a gun Garza had, whether

it was black or yellow. I do not know who made the attack, but I heard Maximo. The bandits made the attack. I do not know how they fired, because I shut myself up in Ramona Guitierez' house; that house was not burnt. I came out of the house of my own accord. When I came out I saw the box of a cart belonging to my father. I was trying to move it away from the fire when Maximo took me prisoner. He came up behind me and told me to go on, and I had to go. They took two other prisoners; they were Pedro Salinas and Damasio Martinez. I and Pedro Salinas were citizens, and Damasio Martinez was a rural guard. I was so scared I do not know whether there were any people killed or not, but as they took me prisoner I saw some soldiers with some men, and they were wounded in their faces. My house was burnt, and the quarters belonging to Ramona Gonzales and a little store belonging to Bassillio Martinez. Ramona Gonzales was a property-holder, but the government was occupying her house as a barracks. I saw the bandits take some sausage and eatables from the house where I was. After I was brought over to this side I saw some horses, saddles, and Remingtons that the bandits had brought over from San Ygnacio; the horses were marked number 5, and I recognized them. The cart that I was working at was just the box of a cart, a horse cart, but they had an ox cart where they kept their provisions. I did not see anybody take anything out of the ox cart.

Cross-examination:

Witness was asked what a rural guard in Mexico is. He said he could not explain; he had been told they were men to do errands; they have their own officers; they dress as officers dress. If Capt. Segura, he said, ordered these guards to go out on scouts up and down the river they went. Witness said he and Pedro Salinas lived near together, but not in the same house. Witness said nothing prevented the bandits from taking everything from the houses that were left; they could have taken everything if they wanted to. Witness said he did not know how many people
33 lived on the frontier in Tamaulipas, but there are a good many ranches. Witness was asked if the bandits ever robbed or killed anybody except at the barracks. He said he did not know. He did not know whether the citizens fought the revolutionists or not. Witness said he did not see Juan Duque during the fight, for he was in the house, but he saw him after the fight, when he was taken prisoner. Witness said he was in the kitchen eating when the attack was made, but the firing seemed to be on both sides. Witness said some men carried arms and some did not; if they wanted to they carried them. Witness said he had no enemies or arms and so he did not carry any. Witness said he was kept prisoner for eight days on this side, but the prisoner Juan Duque never guarded him. He thought he was an officer of higher rank. The men were all subject to Francisco Benevidas; they called him gengral. Witness did not know who was colonel, and they called lots

of them captain. Witness said it was not a fixed camp there; they were here one day and there the next, but always near around. Two or three men went off at a time; they might have been going for provisions; he did not know. Witness did not see any banners displayed at San Ygnacio; did not see any ensigns; only had a band on their hat. Mexican soldiers did not have any flag; at least he did not see any. Witness said the only rural guard they brought over as prisoner was Damasio Martinez. He said they only brought Damasio Martinez, Pedro Salinas, and himself over as prisoners; that was all he saw; they must have set the others free.

Re-examination:

Witness was asked if these bandits had a red band around their hats, and he said they did. It might have been a piece of cloth; he did not know; Juan Duque had one of those bands; all of them had them.

(Signed) REFUGIO MARTINEZ.

Subscribed and sworn to before me this 12th day of July, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

34 *Testimony of Eulogio Martinez, Witness for Prosecution.*

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JUAN DUQUE.

In extradition. Witness for prosecution.

Testimony of Eulogio J. Martinez.

Witness said: My name is Eulogio J. Martinez. I am 59 years old. I live at San Ygnacio. I am the owner of the ranch. I have lived there twelve growing upon thirteen years. The barracks were burnt on the 10th of December, 1892. I had just killed a hog and was frying it when the bandits came. They were 150 in number. Frank Benevidas and Maximo Martinez were at their head. They fought with the forces of the 6th regiment cavalry. The bandits were in command of that party. The regiment was in command of Capt. Rutillio Segura. He had fourty-odd men. The fight began about eleven or twelve o'clock in the day. The bandits made the attack. They were armed with carbines. They came on foot and afterwards brought up their horses. They left their horses about 400 paces off. The first ones I observed firing were the bandits, but there was firing on both sides. There was about ten men of the forces killed and about two of the bandits. There were twelve or thirteen wounded. I could not say exactly how many. The barracks were burnt and the house of Refugio Mar-

tinez and a little store belonging to Bassillio Martinez. The bandits burnt the house. Of those that were killed I remember Rutillio Segura, first lieutenant, and Second Lieutenant Cavaris. I do not remember the others. Seven bodies were burnt. I burried these men, the bandits as well as the soldiers. I burried them altogether in one grave. I burried them on the 11th of December, the next day. A nephew of mine and neighbor helped me to bury them. They were Porfidio Leal and Felito Martinez. The next day after the fight the captain came and gave him orders to bury them. There were robberies committed on the 10th. At my house Maximo took $7.50 away from my wife. My wife was not connected in any way with the army. They also took two blankets belonging to men. I do not know about the other houses, because I was not in them. They took forty horses from the soldiers and four from the rural guards. They burnt most of the saddles, but what they did not burn they took. They took all the arms except two carbines. One of these a soldier had taken off and did not bring back until the next day, and the other was hidden among the dishes. The bandits took some prisoners. Those I remember were Damasio Martinez, Pedro Salinas, and Rafael Martinez. Pedro Salinas was a citizen and his son-in-law, Rafael Martinez, was not a soldier. The bandits brought the prisoners over. My ranch, San Ygnacio, is in Tamaulipas State.

Cross-examination:

Witness said: I did not see the defendant there, but heard his name called. I never saw the defendant before, but heard his name mentioned. When the firing began I went into my house with my family, for I wanted to see that they were safe. No one called me when I was in the house. Witness was asked if he did not swear in the other trial that Maximo Martinez came and called to him to come out to keep from being burnt to death. Witness said he did not remember. He was then asked if he remembered what he swore to before. Witness answered of what. Witness said that Maximo told the family once to come out of the house.

Witness said: I was never a rural guard; neither were my sons. There were about five jackals left standing after the fight. I do not know whether they took anything from the other citizens or not. The bandits did not search the house at all. The battle lasted about three hours and a half. I was inside and did not see the shooting, but I think they were shooting on both sides, back and forth. I do not think the citizens took part in the fight; at least I did not see any. The company that came up next day after the fight were soldiers of the Thirteenth regiment. They came from Laredo. Laredo is about fourteen leagues from San Ygnacio. The soldiers went to San Ygnacio to help look for Benevidas' men, but only on the frontier. On the lower side of my ranch is the Martineinio; on the north side is the San Jose, but all of them are far off from his. The citizens at those other ranches were not robbed or disturbed; the fight was between the Mexican soldiers and the

revolutionists. There was nothing that I know of to prevent the bandits from robbing everybody, but they did not. I was never taken prisoner. I was raised at the Martienio and lived there twelve or thirteen years.

Q. How many revolutions have there been since you were born?

Prosecuting counsel objects, as it is irrelevant and immaterial.

A. I heard them say lots, but I never mixed with any of them. Witness said Benevidas' men were armed with carbines, black and yellow. He said they must have had pistols, but he did not see them. He said the bandits left on horseback. He said the soldiers were armed with Remingtons, with one shot. The officers had one pistol and one of them had a sable. He did not see any flags on either side.

Re-examination:

Witness was asked if he heard this man called Dugue. He said he heard the name Juan Duque. He did not hear any one answer to the name, but he heard it called among other names. He said it was not when they were calling the roll when he heard the name; it must have been when they were just passing each other.

(Signed) EULOGIO T. MARTINEZ.

Subscribed and sworn to before me this 12th day of July, 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

36 *Testimony of Bassillio Martinez, Witness for Prosecution.*

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JUAN DUQUE.

In extradition. Witness for prosecution.

Testimony of Bassillio Martinez.

Witness said: My name is Bassillio Martinez. I am 62 years old. I live at the Tamaulitas in Mexico. I was born there and raised there. I know of a Ranch San Ygnacio. I was at the Ranch San Ygnacio on the 10th day of December, 1892. I heard Juan Duque's name mentioned there. I do not know the prisoner personally. I remember the assault on San Ygnacio. It was on the 10th of December, 1892, about 12 o'clock. The assault was made by the men from this side. They were about 100 in number. I do not know anything about the principal men, because they assaulted like the Indians in olden times. The Indians came up and attacked you before you were aware. The men were armed with carbines. I did not see any pistols. There were six or seven soldiers killed and two officers. The officers were Capt. Rutillio Segura and Manuel Auribio. Some of the soldiers were wounded. I do not know if

any of the bandits were killed or wounded or not. Myself and two sons were captured, but my son Juan and myself were taken together; Refugio was brought a prisoner to this side—Refugio and Pedro Salinas and Damasio Martinez. Maximo Martinez struck me and my son-in-law. After we were captured we were sitting down, and Maximo came running at us like a wild beast and said it was on account of us that his family was suffering, and he hit my son in the head and struck at me and hit me on the arm. My son was hurt very badly; the knock felled him, but he got up right away. There was quite a lot of blood from his head. There was lot of blood from my arm, too. After that he took us where the horses were and turned us loose. They brought to this side Refugio Martinez, Pedro Salinas, and Damasio Martinez. I did not see anything robbed or stolen, only the horses of the soldiers. I do not know how many. They burnt the house of Refugio Martinez and a little store there. They burnt they barracks; it belonged to Ramona Gonzales; she was a ranch-owner. I had some goods there; what did not burn up the bandits took out in an ox cart. They took some sugar, some flour, and a box of soap. They also took some grain that I had, and something in an ox cart. All that I had there burnt up. It consisted of beans, sugar, coffee, mescale, and other articles—articles to eat and drink. I had about $100.00 in all. I had $80.00 worth in the cart and had unloaded about half of it. I did not see Francisco Benevidas there. I saw Maximo Martinez. I have known him ever since he was born, you might say. I did not see who set the house on fire, but the voice sounded like Maximo's.

Cross-examination:

Witness said: I sold groceries there to the soldiers by the permission of the owner of the ranch, and Capt. Segura told me I could sell them, too. My store was about four or five feet from the barracks; only a little ways off.

Q. Have you heard of the Garza revolution down there on the Rio Grande at that time?

Prosecuting counsel objects, as it is immaterial and irrelevant, not connected with the case.

A. I do not know. I heard of a revolution, but was with my cattle in the pasture. I heard Catarino Garza's name mentioned; did not hear of Francisco Benevidas.

37 Q. How many revolutions have been going on in that country since you were born?

Prosecuting counsel objects. It is immaterial and irrelevant.

A. Several. I do not remember.

Q. Do you remember one in '71 and '72?

Prosecuting counsel objects for the same reason stated above.

A. Do not know anything about it.

Q. Did you know of one in '76 headed by Porfirio Diaz?

Prosecuting counsel objects for the same reason stated above.

A. I was on this side.

Q. Did you hear of that revolution?

Same objection.

A. I heard that there was a revolution. I was on this side. I was on the edge of the Rio Grande, among the Mexican people. They said there was a revolution on the other side, but we never crossed over. We staid on this side.

Some of the people on the Rio Grande carry pistols and some do not. There were four or five houses left standing at San Ygnacio. They burnt me out and I left. I know where the Martienienio is. There are about thirty-odd families there. I staid there the night after the San Ygnacio fight to have my arm treated. I was going to Guerra. I do not know whether there were any houses burnt there or citizens disturbed or not.

(Signed) BACILIO MARTINEZ.

Subscribed and sworn to before me this 12th day of July, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Damasio Martinez, Witness for Prosecution.

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JUAN DUQUE.

In extradition. Witness for prosecution.

Testimony of Damasio Martinez.

Witness said: My name is Damasio Martinez; I am 57 years old; I live in Laredo, Texas; I was born there. I am engaged in agriculture and stock-raising. I was a rural guard of Mexico on the 10th of December. I remember a ranch called San Ygnacio. I was not there when the houses were burnt; I was at the Martinienio. When I got to San Ygnacio the fight was over, but the houses were still burning. I saw two dead men. I did not know them. They belonged to the bandits. The bandits brought me from the Martineinio as a prisoner to San Ygnacio. Martinienio is about a league from San Ygnacio. I was captured about noon. Procopio Gutierez, Juan Duque, Garza Flores, and Inez Ruiz captured me. I know the prisoner here. His name is Juan Duque. He is the same Juan Duque that was in the party that captured me. At the time I was captured I was a rural guard. I was kept a prisoner a month and days. I was kept a prisoner in Texas by the bandits. They brought me from Mexico, where I was captured, to Texas. With me were Refugio Martinez and Pedro Salinas. They were citizens. I was put with them in the woods, where the horses were tied, about 100

paces from San Ygnacio. We came across to Texas on horse
38 back. We crossed the river right opposite San Ygnacio; we forded the river; we came over about one o'clock in the afternoon. All the bandits came over to this side with us; we came over forced. I never saw Juan Duque before that day, but I saw him afterwards on this side. I am certain this is the man I saw there. I saw him every day when I was a prisoner; he was senior captain on the staff. Some of the leaders of the bandits were Francisco Benevidas, Rafael Ramirez. The bandits took some money that was in a pitcher from lady; she was the wife of Mr. E. Martines. They also took saddles and blankets, and they took all the horses they could. They took about thirty-odd horses. I saw about four soldiers wounded. Don Bassillio, a citizen, was hit. I was not hurt in any way. I am still a rural guard. The duty of a rural guard is to go out every day across the country and have camps. They are armed. They are looking for bad people, thieves. On the 10th of December we found more than we wanted. Albert Ayala was with me when they captured me, but he escaped. When I was captured there was one shot; Jesus Chacon fired it. He was with the party of Mr. Duque; he fired at me, but did not hit me. Then we surrendered. They brought me to this side loose, then they tied my arms back of me at night and let me loose in the morning. We were kept under guard.

Cross-examination:

Witness said: The bandits tried to kill me after they captured me, but they were prevented by my friends. I was appointed by the Mexican government to watch the Garza revolutionists; I was paid $25.00 a month. I was armed; I was a soldier. I heard the firing at San Ygnacio when the battle was going on. Duque was at the Martinienio then, about a league from San Ygnacio; a league is about two miles and a half. I did not see anybody take that money from those women, but Maximo said he did it.

Q. Was this movement down in San Ygnacio fought between th e Garza revolutionists and the soldiers of Mexico called a revolution?

Prosecuting counsel objects because it is irrelevant and immaterial what people called it; that names and epithets cannot change the nature of murder and arson and robbery.

A. They called them bandits.

The difference between a revolutionist and bandit is that a bandit *is that a bandit* will steal and a revolutionist will not. They stole around from the women and children. They stole a wallet of clothes from a lady by the name of Severa, a soldier's wife. They did not steal anything from where I was stationed. It was a large ranch; they could have stolen if they wanted to. They were at liberty to steal the whole country and sack the town if they had wanted to, but they did not do it. I do not know what is the difference between that and any other revolution. I do not remember any other. I have heard of the Diaz revolution.

Q. Was that different to this one?

Prosecuting counsel objects, since, no matter what kind of a revolution Gen. Diaz started, Gen. Diaz is not on trial before this court, and the question has no connection with the prisoner here and the crimes committed at San Ygnacio.

Q. What is the difference between Diaz' and this revolution?
A. I could not give an account of Diaz' revolution.

his
(Signed) DAMASCIO x MARTINEZ.
mark.

Subscribed (by mark) and sworn to before me this 12th day of July, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

39 *Testimony of Ricardo Granados, Witness for Defendant.*

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JUAN DUQUE.

In extradition. Witness for defendant.

Testimony of Ricardo Granados.

Witness said: My name is Ricardo Granados. I live in San Antonio, 172 North St. Before I came here I lived in the city of Mexico. I am a citizen of the Republic of Mexico. I have an official in that office. I was chief clerk and afterwards private engineer. Before I came to San Antonio I was editor of a newspaper called "La Republica." In politics it was termed a liberal independent newspaper. It was suppressed by the order of President Diaz.

Q. What was his objection to the paper?

Prosecuting counsel objects; it is immaterial and irrelevant; has no connection with the case of Juan Duque.

A. The last article before it was suppressed was an article criticizing the police; the manner in which they suppressed another newspaper.

Q. How many newspapers had they suppressed in the city of Mexico?

Prosecuting counsel objects for the same reason stated above.

A. Six or eight; at least six.

Q. What did they do with the editors?

Prosecuting counsel objects for the same reason stated above.

A. Nearly all of them are in prison*er* except Mr. Garza Gutierez and myself. We escaped and they did not catch us.

Q. Then you cannot go back to Mexico on account of what you published, and your paper was suppressed?

A. Yes.

Prosecuting counsel objects to encumbering the record of the court with irrelevant matter.

Witness said he was raised in Mexico. He said he is 43 years old now. When asked if he knew anything about the revolution of Diaz he said, Very much.

Q. What were the aims, objects, and purposes of that revolution?

Prosecuting counsel objects to all testimony in regard to that so-called revolution of Diaz, because that instance occurred more than 16 years before the raid on San Ygnacio, and because the defendant here, Juan Duque, is not shown to have been connected with that revolution, and because there is nothing in those matters that can tend to prove any facts material to this case, and because the events of that so-called revolution are matters of public history, known to this court and to the Secretary of State, at Washington, and can have no bearing whatever upon the issue before the court.

Q. How many revolutions have there been in Mexico?

Court objects to the question.

Q. How many revolutions has Mr. Diaz been engaged in?

Prosecuting counsel objects for the same reason stated above.

A. Two since the fall of the empire.

Witness said Diaz had been in two revolutions; the last one, in '76, was against Lerdo Tajado. It was organized in Texas.

Q. What were the aims, objects, and purposes of that revolution of Diaz in '76?

Prosecuting counsel objects for the same reason stated above.

A. Especially for no re-election.

Q. Do you know what the aims, objects, and purposes of Garza's revolution in '91 were?

Prosecuting counsel objects for the same reason stated above.

A. It was a great revolution on the same plan as the one started afterwards.

Q. You saw the proclamations—what the difference, if any, between them?

Prosecuting counsel objects because the best evidence of their difference is the two proclamations, so we could compare them and see what the difference is; object because it is not the way to prove it.

A. The one that Garza raised had the same idea as the one of Diaz against Lerdo.

PROSECUTING COUNSEL: I move to strike out the testimony of this witness, Ricardo Granados, because he has testified to nothing

that is material to the case or nothing that has the remotest bearing upon the case, and the whole of it is irrelevant and immaterial.

(Signed) RICARDO GRANADOS.

Subscribed and sworn to before me this 13th day of July, 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Captain McMasters, Witness for Defendant.

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JUAN DUQUE.

In extradition. Witness for defendant.

Testimony of Capt. McMasters.

Witness said: My name is William McMasters. I am clerk of the dist. court. I have three or four indictments against Catarina Garza; the balance have been dismissed.

Q. How many men were indicted for taking part in the revolution?

Prosecuting counsel objects to that question because the records of the court themselves are the best evidence and the clerk is not allowed to testify to the contents of his records, but can only give certified copies of same.

A. About 260 or 270.

Q. These indictments—were they not nearly all alike?

A. Pretty much so.

Prosecuting counsel makes the further objection because there is no connection shown between these indictments and the San Ygnacio matter.

Q. Is the indictment against Juan Duque in your court the same as against Inez Ruiz?

Prosecuting counsel objects for the reason above stated, that the indictments themselves are the best evidence.

Witness said the case against Juan Duque had been dismissed. The order of dismissal was entered. Witness said the cases are all dismissed except the one against Garza himself.

(Signed) WM. McMASTER.

Sworn to and subscribed before me 23rd day of June, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

41 *Testimony of Santiago Garza, Witness for Defendant.*

UNITED STATES OF AMERICA,
Western District of Texas.

In Re JUAN DUQUE.

In extradition. Witness for defendant.

Testimony of Santiago Garza.

Witness said: My name is Santiago Garza. I am 52 years old. I live at Agua Nueva; have lived there for 21 or 22 years. I know Juan Duque; have known him since 1876. He was then at the ranch of the Balles. He was then about 12 or 14 years old. Duque made his home mostly at Agua Nueva since he was married. I do not know anything about the Garza revolution, only heard there was one.

No cross-examination.
(Signed) SANTIAGO GARZA.

Subscribed and sworn to before me this 15th day of July, A. D. 1894.

——.

Testimony of Mauro Ramirez, Witness for Defendant.

UNITED STATES OF AMERICA,
Western District of Texas.

In Re JUAN DUQUE.

In extradition. Witness for defendant.

Testimony of Mauro Ramirez.

Witness said: My name is Mauro Ramirez. I live at Agua Nueva; have lived there since '68. I know Juan Duque. The first time I saw him was at the house of Diego Balle, in 1876. He was then a youth. Juan Duque has lived most of the time working with Diego Balle here in Texas. All I know about the Garza revolution is what I heard. I have never seen any of the Garza men nor the Benevidas men.

No cross-examination.
(Signed) MAURO RAMIREZ.

Subscribed and sworn to before me this 13th day of July, A. D. 1894.
(Signed) L. F. PRICE,
U. S. Comm'r.

42 *Testimony of Castulo Ramirez, Witness for Defendant.*

UNITED STATES OF AMERICA,
Western District of Texas.

In Re JUAN DUQUE.

In extradition. Witness for defendant.

Testimony of Castulo Ramirez.

Witness said: My name is Castulo Ramirez; I live at Agua Nueva; I have lived there about twenty-five years. I know Juan Duque; have known him since '75 or '76. I knew him at the ranch of Diego Balle; he was then about 12 or 14 years old. He has lived the most of the time since then on this side, at the ranch of Agua Nueva. I do not know anything about the Garza revolution except what I have heard. I never saw any of the Benevidas men.

(Signed) CASTULO RAMIREZ.

No cross-examination.

Subscribed and sworn to before me this 13th day of July, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Diego Balle, Witness for Defendant.

UNITED STATES OF AMERICA,
Western District of Texas.

In Re JUAN DUQUE.

In extradition. Witness for defendant.

Testimony of Diego Balle.

Witness said: My name is Diego Balle; I live in Starr county, Texas; I am 57 years of age. I know Juan Duque very well; have known him since he first came into my possession, in '76. I think he was about 13 or 14 years old then. I am no relation to him, but his wife is related to my wife.

Q. Did you act the part of a father to this boy?

Prosecuting counsel objects; it is leading and suggests the answer.

A. Yes.

Q. What capacity did you act towards this boy in raising him?

Prosecuting counsel objects for the same reason stated above.

A. During the time he was under my control he behaved well to me and I acted very well towards him.

Q. Did he live with you up to the time he was married?

Prosecuting counsel objects for the same reason stated above.

—. After he was married he lived a while on this side, working for me, and then went over to the other side and lived with his family. He has lived most of the time since he was married on this side, but his fam- have lived sometimes on this and sometimes on the other side.

Witness was asked if he knew of any act of citizenship of Juan performing in the State of Texas at the general election, about voting or otherwise.

—. I do not know whether he has or not.

Q. Before Juan was married how did he treat him when he was raising him as one of his children?

Prosecuting counsel objects; it is leading.

43 Q. When he was married, before he was married, how did he treat him?

A. The best I could; he worked on my ranch under my command and he always obeyed, and I treated accordingly.

Witness said he did not know Juan's father; he did not know whether he had another father or not.

Cross-examination:

Witness said: I am not Juan's father; he was an adopted child of mine; he came over to this side looking for work and I employed him. I am not rich; I am quite poor. I have a ranch and some cattle and horses. I employ three or four men. Juan was about 13 or 14 years old when I first employed him, I think. I did not pay him; I gave him his board and clothes until he was married and then I paid him so he could support his family. He was about 18 or 19 years old when he married. He was with me about five or six years before he was married. He was married at Camargo, Mexico. He married a neice of my wife; her name was Jorga Chapa. I was at the wedding; it was about 10 or 12 years ago. I think Juan has four children, two boys and two girls. The oldest is a girl and is named Antonio; the next is a boy and is named Donato; the other two, I do not remember their names. Antonio is about nine or ten years old, Donato about six or seven; the smallest is about three years old. I do not know whether they were born on this side or in Mexico. Juan Duque lived with me for about one year after he was married; his oldest child was born afterwards. He left his family in Camargo and came back to work; he never abandoned his family. Juan was born at Mia, a little above Camargo, Mexico. I was born in Nueva Leon. I am a Mexican citizen. I do not know whether Juan is an American or Mexican citizen.

Q. He is a Mexican citizen unless he has been naturalized.

Defending counsel objects; it is an opinion of the witness.

I have never been naturalized. I do not know whether he was naturalized or not. I am not a brother to the county treasurer;

his name is Rijo. I do not know, but I think that Bob Nix is the county clerk of your county. I do not take any interest in those matters.

(Signed) DIEGO VALLE.

Subscribed and sworn to before me this 13th day of July, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Luciano Castro, Witness for Defendant.

UNITED STATES OF AMERICA,
Western District of Texas.

In Re JUAN DUQUE.

In extradition. Witness for defendant.

Testimony of Luciano Castro.

Witness said: My name is Luciano Castro. I live at Agua Nueva. I have lived there from my early youth. I have known Juan Duque from the time that General Diaz has been president of Mexico. I do not know how old Juan was then; he was living at the ranch of Don Balle, in Texas; he lived there from 1876 to '84, working with me. Juan worked some time on this side and some time on the other side. I knew his wife. The greater portion of their children must have been born on the other side.

44 Cross-examination:

I was born in 1858; this is '94. I am not certain how old I am. Some of my aunts tell me I am this old and some another age. I worked at the Balles at the same time with Juan. I was born in Rio Grande City. I was married a little before him. I was married at Rio Grande City. Juan was married at Camargo; I was not at the wedding. I am not certain, but think Juan was married in 1882. I think the youngest child was born in Rio Grande City. Their names are Antonio, Donato, Graciano, and Crisofero. I think Crisofero is four years old. I think Donato is about 11 or 12 years old. Antonio is a few years older than Donato. Graciano is six or seven. Donato was baptized at Camargo. I am his godfather. His father gave him the name of Donato. It is not my name or the name of the saint of the day on which he was born. Juan worked on this side, but went on the other side at different times to see his family. He sometimes worked on the other side, for he staid over there sometimes for months at a time. Juan Duque has a little jackal on this side; it used to be on the land of Don Diego, but now it is on my land. I have about four hundred acres of land. Juan bought lumber and made the house on my land. It is not the same house he had on Balle's land. Juan Duque lived in the house

on my land for two years—'90 and '91—after he was married. His wife lived there with him, and his children also. He worked about from place to place, wherever he could get work.

Witness was asked if he was not hired by a man named Francisco Benevidas. He said he did not know. He worked for Mr. Ramirez and Mr. Salinas on this side; they had a store; he helped them sell goods—peddled them to the herders. They got their goods from Pena and Laredo, I think. The store was at the Salado, three or four miles from the ranch. The men that had the store were Lasoro Ramirez and Calisto Salinas; their P. O. is at Pena. I think Pena is about twelve leagues from the store. I am an American citizen. I was born on this side. My parents are dead. They died at the ranch of San Diego. My father lived there for twenty years. I bought my land from Rafael Ramirez; he bought it from various persons. It is in Starr Co. Witness was asked if his deed of conveyance was on record in Starr Co.; he said yes; it was. I have got about forty or fifty head of cattle and horses. My brand is a number five reversed, both for cattle and horses. I worked for the Balles for a long time; there was a short time I did not work for them; it was about three months when I was in San Antonio. I have an aunt here; my uncle's name was Desedoro Garcia; he is dead now; my aunt lives here, but I do not know where; have not been to see her for a long time. I worked at Gabriel Balle the most. Don Diego Balle has no children; his wife is living. He has been married ever since I have known him. I have known him for about 22 or 23 years. I live about four or three and a half leagues from Don Diego. He has two ranches. The one near me is a small one and has a house on it. Where he lives is at the old place. I vote at San Pedro, Starr Co. I voted for Sheley for sheriff. I do not know who I voted for — governor; the names were written in English. I cannot read or write English. I can read and write Spanish a little. I can write my name. I do not know who is governor of Texas.

Re-examination:

Witness was asked at what place, if any, in Mexico did Juan Duque ever maintain a house of his own; he said he did not know whether he had a house in Mexico or not. When his wife is in Mexico she lives with her parents at the Jasooka and sometimes at Camargo.

(Signed) LUCIANO CASTRO.

Subscribed and sworn to before me this 13th day of July, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

45 *Testimony of Jesus Ramirez, Witness for Defendant.*

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JUAN DUQUE.

In extradition. Witness for defendant.

Testimony of Jesus Ramirez.

Witness said: My name is Jesus Ramirez. I am 43 years old. I live in Agua Nueva, Starr county, Texas. I know Juan Duque. I have known him from his early youth. Juan Duque has lived all this time that I have known him part of the time in Mia and part of it in Texas. He was in Texas in 1876, living with Don Diego Balle. He was eleven or twelve years of age when he came to Texas. Duque is married. His family live either on the other side of the river or at Rio Grande City, Texas. He did not live in the same county with me when he lived with Diego Balle. He moved back to Mexico after he was married. I do not know anything about Juan Duque's connection with the Garza revolution. I know Francisco Benevidas. I do not know anything about his commanding in the Garza revolution in '92, at San Ygnacio.

Cross-examination:

Witness said: I was born in '51, at Mia. I think Juan Duque was born about '64 or '65. He was born at Mia. I believe I am 12 or 13 years older than Juan. I have known him since he was very small. I knew his father and mother. His father's name was Lino Duque and his mother's name was Antonio. I do not know her family name. This last time I knew his parents they were still living at Mia. It was in '82. I am not sure, but think that Juan Duque first came over to the Texas side in '75 & '76. I do not know how long he first came over her- to stay, but he was married over here. He was married at Camargo, Mexico. I was living at that time at Agua Nuevo, Texas. I came from Mia to Agua Nueva in 1872. I have lived there ever since. I have a family there. Juan lived at Camargo after he was married; then he came to this side. He came to Agua Nueva, on this side. I think he had three or four children. I do not remember how long ago that was that he came there with his wife and three or four children. I do not know how long it is since Juan was married. I do not know his wife's name before she was married. I do not know where she lived. It has been four or five years since I saw his wife. The last time I heard of Juan he was living with his wife. I do not know how long he lived at Agua Nueva with his wife and children, but think it was more than a year. It is about 15 leagues from Agua Nueva to Rio Grande City; they are both in Starr county. Rio Grande City is the county-seat. It has been about two years

since I was there, since 1892. I have been to Rio Grande City on several occasions before '92. I think his father and mother never lived on this side. My mother, that is yet living, lives in Mia; my father is dead. I have not been in Mia for about 12 years; 1882 was the last time I was there. I am a man with a family. I live on my own land. I am a "ranchero."

Re-examination:

Witness said: Rio Grande City is a small place, not large. I do not know how many people live there. There are stores and other people living there. I never inquired for Mrs. Duque when I was there, because I was not looking for her.

(Signed) JESUS RAMIREZ.

Subscribed and sworn to before me this 13th day of July, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

46 *Testimony of Pedro Zarate, Witness for Defendant.*

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JUAN DUQUE.

In extradition. Witness for defendant.

Testimony of Pedro Zarate.

Witness said: My name is Pedro Zarate. I live at the place of Luevo Nuevo and the ranch of the name of San Pedro and Medonita, Starr county. I came over to this side in 1860. I know Juan Duque; have known him since 1876. I think he was about 13 or 14 years of age when I first knew him; he was living with Diego Balle then. Witness was asked if he knew of any act of citizenship of Duque performing in Texas—voting at the election or not. He said no; he did not know of any. I hear Juan Duque is married, but do not know his family.

No cross-examination.

Prosecuting counsel objects to paying anything for the last witness, as he did not testify to anything about the case.

(Signed) PEDRO ZARATE.

Subscribed and sworn to before me this 13th day of July, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Pedro Rios, Witness for Defendant.

UNITED STATES OF AMERICA,
Western District of Texas.

In Re JUAN DUQUE.

In extradition. Witness for defendant.

Testimony of Pedro Rios.

Witness said: My name is Pedro Rios. I live at Rio Grande City. I am 36 years old. I know Juan Duque; have known him for about 14 years. I do not know how old Juan Duque is. Most of the time Juan Duque was working on this side from place to place. He lived with the Balles. A short time after I knew Juan Duque he was married; as soon as he was married he came to this side. He has four children. Some of them were born on this side and some on the other side. I have not seen him for some time, but I think he has no place or occupation at present.

Cross-examination:

Witness said: I am 36 years old. I was born in 1856. Juan Duque married Jorga Chapa. I knew her before she was married. She lived at Jasooka, above Camargo, Mexico I was not at the wedding. I was on this side. I have worked for four years at Camargo and four years at Rio Grande City; they are close by, one on one side and one on the other side of the river, about a league apart. Jasooka is about four leagues and one-half from Rio Grande City; that is about 12 miles. I think three of his children
47 were born on the other side; the youngest one on this side. When Juan Duque came over with his wife and three children he stopped at my house and at Balle's. His wife is a niece of my wife's. He used to stay about eight or ten days. Mrs. Duque is living with her father in Jasooka, Mexico. She has her children with her. She has four children. The youngest is about two years and a half old. The oldest, I think, is about 12 or 13 years old. The second one is a boy and is about eight years old. The third one is a girl. She is about six years of age. The youngest one is a boy. There are two girls and two boys. The oldest one is named Antonio, the second one Donato. I do not remember the names of the other two. I was not its godfather. It has been about 12 years since Juan Duque was married. I was married a little before him, and I was married in '81 or '80. I was born at Camargo and married there. I live at Rio Grande City; have lived there for about four years. Juan Duque was a man that took whatever work he could get.

Witness was asked if he was what we call in English a cowboy, and he said yes; he was. I do not know how long Juan Duque's family have been in Mexico. I do not know how old Juan Duque

is. When I first knew him he was a youth. I first knew him at Camargo. I have known him since '81 or '82. The family he married into live at Camargo. My parents are dead.

Re-examination:

Witness was asked if it was not during the Garza revolution down on the Rio Grande that Juan Duque's wife went over to her father's. He said he thought it was before that, but was not certain. He was then asked how long she had been over there. He said he was not certain, but thought it was about two years.

(Signed) PEDRO RIOS.

Subscribed and sworn to before me this 13th day of July, 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Miguel Gonzales Dena, Witness for Defendant.

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JUAN DUQUE.

In extradition. Witness for defendant.

Testimony of Miguel Gonzales Dena.

Witness said: My name is Miguel Dena. I live at 316 S. Laredo St. I have lived in Texas for three years. Before that I lived at Matamoras, Tamaulipas. I am an editor and printer. I edit a paper called El Latigo. I was a printer in Matamoras. I came over to Texas as a visitor, but afterwards decided to remain here. I do not think I could publish my paper in Mexico because, to a certain extent, it is opposed to the management of the government. My paper is classed among what is called the independent papers. According to the law of 1857 it could be published because the press of Mexico is free, but the present administration will not allow its acts to be criticised.

Q. If they are criticised what is the consequence?

Prosecuting counsel objects to all that has gone before because it is irrelevant and immaterial and has nothing to do with the case of Juan Duque

A. They will be accused according to the common law of Mexico.

Q. What will be the punishment?

Prosecuting counsel objects for the same reason stated above.

A. It depends upon the judge before whom it is tried.

Q. What are the punishments attached?

Prosecuting counsel objects for the same reason stated above.

A. I cannot answer that, because there are various ways of
48 punishment, and, as I said before, it depends upon the mode of trial, and it depends also upon the influence that is brought to bear.

Q. Do you know Catarina Garza?

Prosecuting counsel objects to anything in regard to Catarina Garza, because it is not connected with Juan Duque and the raid on San Ygnacio.

A. Yes, sir.

Q. How long have you known him?

Same objection.

A. I cannot say the exact time, but have known him from early youth.

Q. Knew him in '91 and '92?

Same objection.

A. The last time I saw him was here in San Antonio. He came here on a visit and then published a small paper somewhere on the frontier.

Q. Was Catarina Garza engaged or not in that revolution?

Same objection.

A. Catarina Garza was publishing a paper called the "Free Thinker," and I got all of my information from the press.

Prosecuting counsel objects to anything further from the witness in regard to the movements of Garza. The witness does not seem to have any personal knowledge, but only through the newspapers. Witness said he knew Catarinas Garza's handwriting.

Q. Did you ever see any commission issued by Garza in that revolution; if so, to whom?

Prosecuting counsel objects because he is not sufficiently qualified to speak of the handwriting of Catarina Garza, and no handwriting of Catarina Garza is produced in court.

A. Of written letters, no; but of printed ones, yes.

Q. Who were known and recognized as commanders under Garza?

Prosecuting counsel objects because the witness has already stated he knows nothing of this kind only known from public print, and consequently his answer must be hearsay.

Q. What papers, if any, of that revolution did you see?

Prosecuting counsel objects for the same reason stated above, and, furthermore, that the publications made in the newspapers are themselves the best evidence of what they were.

A. I have seen various.

—. Were you ever engaged in a revolution in Mexico or on the borders of Texas and Mexico?

Same objection.

A. On the frontier of Mexico, I was, in 1876.

Q. What were the aims, objects, and purposes of that revolution you were engaged in?

Prosecuting counsel objects to any evidence in regard to the revolution in '76, because it is more than 16 years prior to the transaction which we are now trying to prove, and there is no evidence to connect the defendant, Juan Duque, with the revolution, and, further, that the incidents of that revolution are public history, judicially known to this court and to the Department of State, and that the facts shown by the witness are irrelevant and immaterial to the case.

A. To overthrow the government of Mr. Sebastian Lerdo Tejada.

Q. Was that revolution successful or unsuccessful?

Prosecuting counsel objects for the same reason stated above.

A. Successful.

Q. Who commanded the revolution?

Prosecuting counsel objects for the same reason stated above.

A. General Diaz.

Q. How was that revolution organized and where organized?

Prosecuting counsel objects for the same reason stated above.

A. It was organized in Brownsville, Texas.

Q. How were the men armed that were organized?

Prosecuting counsel objects for the same reason stated above.

A. Various classes of arms.

49 Q. How many men did Diaz have when he organized that revolution?

Prosecuting counsel objects for the same reason stated above.

A. I cannot say the exact number, but he did not have many men.

Q. Did they have a fight over there?

Prosecuting counsel objects for the same reason stated above.

A. They took the city of Matamoras on the second of April.

Q. How many men did Diaz have engaged in that fight?

Prosecuting counsel objects for the same reason stated above.

A. I already told you I did not know.

Q. More or less?

Prosecuting counsel objects for the same reason stated above.

A. More than 200.

Q. How long did the battle last?

Prosecuting counsel objects for the same reason stated above.

A. At six o'clock in the morning the forces under Gen. Diaz pre-

sented themselves before the breastwork and by 12 o'clock that day everything was over.

Q. Any men killed or wounded?

Prosecuting counsel objects for the same reason stated above.

A. I do not know.

Prosecuting counsel moves to strike out all the testimony of the witness Gonzales Dena because he has testified to nothing that is material to the case or nothing that has even the remotest bearing upon the case, and the whole of it is irrelevant and immaterial.

(Signed) M. G. DENA.

Subscribed and sworn to before me this 13 day of July, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Dr. P. Ornelas, Witness for Prosecution.

UNITED STATES OF AMERICA,
Western District of Texas.

In Re JUAN DUQUE.

In extradition. Witness for prosecution, in rebuttal.

Testimony of Dr. P. Ornelas.

Witness said: My name is Dr. Ornelas. I live at San Antonio. I am consul of the Republic of Mexico. I am a physician. I have lived in San Antonio 17 years. I have been consul all that time. I am a citizen of Mexico. I know Juan Duque. I have known him since he came to San Antonio, lately. I have met him three times; once in this building, another at my office, and the third time here at the desk of Judge Price. The first time I met him I did not know him, but I got some one to bring him into the marshal's office. Mr. Stayton, your partner, was with me. He was taking your place. You were gone to New Orleans. He was representing the Mexican government. Mr. Stayton asked him some questions and I interpreted for him. Mr. Stayton propounded four or five questions in regard to the complicity of Inez Ruiz in the assault on San Ygnacio. After Mr. Stayton heard the answers we went out, leaving Mr. Duque in the room. This interview was when the witnesses were here to testify in the Inez Ruiz case.

Witness was told to state whether or not he told Juan Duque that he had been sent for to give testimony in the Ruiz and Guerra cases, and that all the witnesses were giving the same kind of testimony. Witness said: No, he did not.

State whether or not Juan Duque told you he could not say anything except what was the truth—anything false.

He did not say anything of the kind, witness said, because he was not questioned.

Q. Did you discharge this man at that time or not?

A. No, sir; I did not discharge him for four or five or six days after that; in fact, the court discharged him before I did.

State whether or not you called Juan Duque to you and asked him if he was Juan Duque. Witness said he got Pablo Longorio to call him, and probably he did ask him if he was Juan Duque, for he did not know him before.

Q. Did you say, "I have the pleasure to know you, sir"?

A. Probably I did, for I treated him with the utmost courtesy.

Q. State whether or not you told him to tell you all he knew about Inez Ruiz.

A. No.

Q. Did you, as interpreter of Mr. Stayton, tell him to tell you all he knew of Inez Ruiz?

A. No, sir; the court was waiting.

Q. Did he say or not that he was perfectly willing to say all he knew of the truth?

A. No, sir; he answered the questions that Judge Stayton propounded.

Q. After he commenced to make some statements did you say to him that all the witnesses were in the condition to make the same statements—to give the same kind of testimony?

A. I did not.

Q. Did he tell you he could not say anything but the truth, and then you told him he was discharged?

A. No, sir.

Q. Which went out first?

A. We did.

Q. Left him in the room?

A. Yes.

Q. Tell all about the second time you met him.

A. The second time he came to my office with Lucio Cantu. The object of his call was to demand payment for three days, besides what the court had allowed. The court discharged him three days before I told him I did not want him, and he claimed payment for the three days he presumed he was in my services. I told him he was perfectly correct and the money should be paid him.

Q. The third time you met him.

A. The third time I met him was at Judge Price's desk. I called the interpreter, Mr. Tucker. I asked the judge to pay him for those three days if he could consistently. The judge said he had closed the pay-roll, but he would enroll him for those three days on another case.

Q. State whether or not you had this man brought here as a witness for the purpose of having him arrested and extradited.

A. No, sir.

Q. State how it happened.

A. He was brought here as a witness. I knew he was acquainted

with facts with the assault on San Ygnacio, and I asked to have him subpœn-ed.

Q. When did you have him arrested, before or after he was discharged?

A. Four or five days after.

Q. What determined you to have him arrested?

A. I have been furnished with the names of those who are wanted for the crimes at San Ygnacio. His name was on the list, and I considered it my duty to act.

Q. State whether you were acting under the instructions of your governor when you had him arrested.

A. Yes; he can state himself how I treated him. I have no personal feeling against him. I feel sorry for him as a compatriot. I would rather not see him, but my official duties are entirely independent of my feelings.

Q. Have you any other statement you wish to make?

A. Nothing but what you desire.

51 Cross-examination:

Q. State the questions that were asked by Mr. Stayton.

A. I cannot repeat them verbatim, but they were in regard to the complicity of Inez Ruiz.

Q. You did not put Juan Duque on in the case of Inez Ruiz?

A. It was not my say-so; I was interpreting.

Q. Did you have any conversation with Juan Duque in regard to the witnesses that were brought here by the Government?

A. No, sir.

Q. You had this list of names some time prior to the case?

A. Yes, sir.

Q. You knew he was a State's witness for the Government upstairs?

A. Yes, sir.

Q. You knew where he lived?

A. They informed me.

Q. You knew his residence was in Duval county, Texas?

A. Yes, sir.

Q. You knew he was discharged in the district court above here for complicity in the revolutionist matters?

A. I was not certain; I knew it positively after.

Q. You knew he was discharged?

A. No.

Q. You took no steps at all to have him brought to justice until you had him brought here as a witness?

A. Not before.

Q. Yet you knew his whereabouts?

A. No.

I knew his residence when I sent out the application for him as a witness. Witness said he did not have anything to do with the prosecution; it was left to the attorney.

Q. Was not Duque put on for the defendant in the Guerra case, and did you not know it?

—. I supposed so; I do not remember.

It was four or five days after that that I had him arrested. It was before *le* left the city.

Q. Why was it, Doctor, that you did not take any steps against him after he was discharged by the Federal court about the crimes at San Ygnacio?

A. I cannot answer that question.

Q. Why was it that you did not have him arrested when you found him here in the city for his complicity in the Garza revolution matter?

A. I cannot answer that question.

Q. Why was it you delayed his arrest before he left the city?

A. I decline to answer that question.

Q. What is the "Ley Fuga" in Mexico?

A. There is no such law.

Q. Was there ever such a law?

A. It is very much as a mob law.

Q. Law under the authority that enforce it?

A. It is not a law.

Q. When it is practiced it is practiced without legal authority?

A. Of course anything that is done without the authority of the law.

Q. Then the "Ley Fuga" does not exist?

A. No; it does not exist.

Q. There is a written law in your constitution that prevents the re-election of the president, is there not?

A. No.

Q. Was there not two years ago?

A. No; the constitution has been amended.

Q. Was there not three years ago?

A. No.

It was not the law when the last president was elected. The last election was three years ago; in '92, I think. The constitu-
52 tion was amended in that way about eight years ago. Mr. Diaz has been elected president more than one time, but not in succession. It was an interval of four years between. I have been Mexican consul for 17 years.

Q. Is not there a statute in the books of Mexico in regard to expatriation that when a man goes away and stays away three years he is no longer a Mexican citizen?

A. No, sir; a man that wants to stay away for more than ten years has to ask the permission of the president, but any man that is abroad more than that time following a professional pursuit is a Mexican citizen, except a man that commits crimes; he cannot claim to be a citizen unless the president gives his consent.

Q. Is it not a fact that the reason you did not have Juan Duque arrested before this time for his complicity in the San Ygnacio affair of '92 was because he had rendered services to the U. S. court in taking the followers of Garza in?

A. No; because what he did for his government I am not sup-

posed to know. I knew he was a State's witness. That is not the reason I did not have him arrested; I never thought of it.

Q. Yet his name was on the list?

A. Not exactly; I refuse to answer those questions again.

Witness said: I was appointed soon after Mr. Diaz was made president, about six months afterwards. Before that I lived at Philadelphia, U. S. I have been filling an honorable position of commissioner of the Centennial exposition at Philadelphia under Lerdo.

Q. How was Lerdo displaced by Diaz.

Prosecuting counsel objects because it — a matter of public history judicially known to this court and to the department at Washington. It is not a legitimate cross-examination and it is irrelevant to this case.

The question was withheld from the court.

The defending counsel wishes to proove that the aims, objects, and purposes were the same in Diaz' revolution as in Garza's.

(Signed) P. ORNELAS,
Consul of Mexico.

Subscribed and sworn to before me this 17th day of July, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Juan Duque, Defendant.

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JUAN DUQUE.

In extradition. Witness for defendant.

Testimony of Juan Duque.

Witness said: My name is Juan Duque; the greater portion of my age I was raised in Texas; most of the time I was with Diego Balle; I was not yet fourteen years of age when I came to Texas. I have recognized no house as my own since I came to Texas except Don Diego Balle's. I have no home in Mexico. I was told that I was brought up here to testify in the case of Inez Ruiz and Jesus Guerra; I did not testify in the case of Ruiz. The day I was brought here the consul told me he had brought me and desired to know me; it was Dr. Ornelas. Dr. Ornelas told me he had sent for me to give evidence against Inez Ruiz and Jesus Guerra, and that
53 all the witnesses were under the understanding to give the same kind of testimony. Then I told him I could not say anything except what was the truth. I could not say anything false. Dr. Ornelas then told me I was discharged. Then I do not recollect whether it was the next day or the third day that I came

here and was put under oath. I was put under oath, and the next day when I came here the interpreter told me I could go where I pleased. Three or four days after that I came up here to get pay for the days on which I was here for the case of Jesus Guerra. It was three or four days after I was discharged when I was arrested. I did not go home, for I was waiting to be paid. I remained here at a little restaurant where I boarded. I came here once or twice, for I wanted to see whether I was going to get paid. I was discharged by the court before I was arrested, but *he* had not left the city.

Q. Were you or were you not indicted in the U. S. court above as a Garza revolutionist?

Prosecuting counsel objects; the records of the court are the best evidence of that.

A. Yes, sir; I was accused, and also a prisoner here in the jail.

Q. Were you or not released under that charge?

Same objection.

A. Yes, sir; I was discharged upon two occasions.

Witness was asked where he had been living since he was discharged. He said, After I was discharged I went to Rio Grande City, where I am living the most of the time, and two or three days after a deputy arrived there and arrested me again.

According to my understanding, I was arrested under the charge of being one of the bandits at the San Ygnacio fight.

After I arrived here I spent one night in the jail and the next day was brought, I think, before this judge here, and I gave bond for either $100.00 or $200.00 and then I was turned loose and went home.

Q. Ever been tried under that charge?

Prosecuting counsel objects for the same reason stated above.

A. I returned again in Nov. to the court and was discharged by the court. After I went back I went to Rio Grande City and then I brought my family there. There was where I intended to live, and from that time I was with Mr. Sheeley and was with the U. S. troops. I went among them as one of the soldiers. I was mounted and armed. I was to obey whatever orders Mr. Sheeley gave me. I went with Joe Sheeley as far as the Consalamo ranch and from there I accompanied Wash. We were then taking up men that belonged to the Garza revolution and were protectors of the same.

Q. Was Mr. Sheeley sheriff?

Prosecuting counsel objects; it is leading.

A. He was the high sheriff of Starr Co., Texas.

When Joe Sheeley turned me over to Wash he told me to obey all his orders. I did it. About fifteen days after that we were disoccupied and I came to the ranch of Diego Balle, where I was shearing sheep of Diego Balle.

Cross-examination:

Witness said: My father's name was Lina. My mother's name was Antonio Gutierez. A short time ago they were both living. I do not know now. They were living in Mia. I was born in Mia, Mexico. I was born in '62 or '63. I have never seen any record of my birth. I think I was baptized in Mia. I was about thirteen or fourteen years old when I came to Texas. I do not remember the year I came to Diego Balle's, but I went there as soon as I went to Texas. I was married in '82, in Camargo. My wife's name is Jorga Chapa. I had known her for a year before we were married. I first met her at the house of Diego Balle. She is related to his wife. My wife is a niece of his wife. Her house was near Diego Balle's. She lived on the other side. She was raised by an aunt at Camargo, but her parents live at Jasooka. Jasooka is about six miles from Camargo, along the river of San Juan. I visited my wife at Camargo; saw her about five or six months apart.
54 Mia is about ten leagues from Camargo. Mia is about 16 or 18 leagues from the ranch of Diego Balle. Camargo is about 16 or 18 leagues from the ranch of Diego Balle. From the time I left Camargo to the year '81 I never saw my parents. My father owned a shoemaker's shop, and I told him I did not wish to be a shoemaker, but wanted to go out to a ranch to work; that is the reason I left. I came to a ranch of an uncle of mine; there I met Don Diego. The ranch is at Palito Blanco. My uncle is named Manuel Cardena. I was going to work for my uncle, but I met Don Diego and liked him so much and thought he was a better man than my uncle, so I went to work for him. I was married in the last days of March of 1882. About eight days after I was married I came to this side, but my wife would go back and forth all the time. My wife came with me after we were married. I never received any wages before I was married. I got some animals. I got mares and horses. Don Diego gave me a herd of 250 to breed. I think it was a year or two before I was married. He gave me three saddle horses and a stallion. A year after I was married he gave me another herd; it was smaller than the first; they were eighteen fille*y*s. My brand is an S with a cross. The production of the mares he gave me to breed I branded in my brand. Don Diego's brand is a cup handle. The second herd he gave me he branded some of them in my brand, and some of them he put my brand over his brand. I always recognized the house of Diego Balle as my home. I lived in a jackal close by Don Diego's. My wife and I lived there in that jackal until my wife became quite stout and I had to carry her to Camargo. My daughter was born at Camargo. My first daughter was named Antonio. I do not know whether it was in '82 or '83 that my daughter was born. My daughter is a year and some months older than Donato. Donato was born in Camargo. My second daughter is named Gracianno; she was born in '86 or '87. Chrisoforo was born in '90, I think. Graciano was born at Camargo. They were all four born there. They were born at the house of my wife's aunt; her name is Antonio Reyna. She

is still living there is a little jackal. My wife is now living with her parents at Jasooka. In January I went to Brownsville, to the Federal court as a witness, and there was taken sick, and at that time I wrote to her to go to her parents' house, and she did so. That was in Jan. of last year. I do not know how long it has been since I have been to Mexico.

Q. Have you been over across the river since the last eighteen months?

(The court says he can answer or not, as he pleases.)

Defending counsel objects because it is pertaining to the San Ygnacio fight and not pertaining to the case.

A. I do not know whether I have been across or not.

PROSECUTING COUNSEL: I except — the rule of the court on that question for this reason: The question does not tend to criminate the witness, the time mentioned being since the San Ygnacio fight, running back to the 9th day of Jan., 1893, nearly a month after the San Ygnacio fight, and because this is a cross-examination, and I have the right to test the witness' capacity and veracity in every proper manner.

Q. Were you or not at the San Ygnacio fight?

(Court says he need not answer that question.)

A. I was not at the fight of San Ygnacio.

Prosecuting counsel excepts — the rule of the court because the witness has put himself upon the stand as a witness, and when he does so he puts himself upon the same rules as any other witness and is liable to be questioned on all matters in regard to the case.

Defending counsel asks the protection of the court under the constitutional right of man that he should not give testimony in the court pertaining to convicting himself of any crime.

I was first arrested by the U. S. authorities in the month of Feb., '82 or '83—I mean '92 or '93. It was in Rio Grande City, by Mr. Sheeley—Joe Sheeley, it was. I presented myself to him. He then brought us to San Antonio—there was one more, Rafael Valides.

I staid in jail until the court in May. I was discharged in
55 that court. As soon as I reached Rio Grande City, after two or three days, I was arrested again. I was kept in jail one night this time. Then I came to court and gave either a $100 or $200 bond. I think the Sheeleys gave it.

I came up to court again in November. Since that time I have acted as a guide for the Sheeleys. I was then summoned here as a witness in the cases of Ruiz and Guerra. I do not know the name of the officer that brought me, but he is a man with a black mustache. He brought me to San Antonio—right here. I went into the next office and registered myself as a witness. I had a talk with Dr. Ornelas here in one of these rooms. There was another man present besides he and myself. It was an American. I do not know his name; it was not you (points to the prosecuting at-

torney). I talked to Dr. Ornelas in Spanish. I think I would know the man if I was to see him. I do not know whether he was an officer or not. It was the same day I came here I had the talk with Dr. Ornelas. The doctor called me; he spoke to me. He asked me if I was Juan Duque. I said, Yes, sir. Then he said, "I have the pleasure to know you." He told me I was brought here as a witness in the cases of Ruiz and Guerra, and I told him, Yes, sir; that was all right. He then told me to tell him all I knew about Inez Ruiz. I said, Yes; I was perfectly willing to say all I knew of the truth. I then commenced to make some statements, when he said all the witnesses were of the same conditions, to make the same statements.

Witness was asked to state that over again.

He said: Then I commenced to tell him what I knew of Inez Ruiz, and he replied to me that all the witnesses were making the same kind of statements. I told him I could not say anything but the truth, and he then told me I was discharged. I then went out. I talked with Dr. Ornelas one day when I came to get my money. I told him I came to see if he would give me the money due me for three days as a witness. He said, Certainly; he would pay me. Lucio Cantu was present at the conversation. It was in the house of Dr. Ornelas, above a drug store. A lady was talking to the doctor, but there was no one there but me and Lucio when the conversation occurred. I do not know what day that was on, because I was so sick on those days; I was almost crazy. The first pay I received was about $24.00 and the second eleven dollars and some cents. I testified in the Guerra case, but not in the Ruiz case. I cannot write or read very much; I can just write my name.

Q. When were you born?

Defending counsel objects because he has been asked before.

A. I was born in '62 or '63.

Q. Did your mother tell you what year you were born in?

Defending counsel objects because that is the only chance a man has to know.

A. Yes, sir.

Prosecuting counsel asks the witness what he testified to in the case of Jesus Guerra in regard to the San Ygnacio fight; which question was excluded by the court; to which prosecuting counsel excepts because he has a right to cross-examine the witness on this matter and to contradict him by his testimony given in on the former trials if he can.

I was brought here by the marshal, and he told me I was brought here as a witness for Inez Ruiz and Jesus Guerra.

Witness was asked how long after he signed those papers he was arrested. He said he did not know, for he was so sick he was like a crazy man.

Q. What was the matter with you?

Defendant objects.

This paper is dated on the 21st of June. Were you in jail at that time?

Defendant objects because there is better evidence; the commitment shows that.

56 Q. How long have you been in jail since this last time?
A. Since the past month.

(Signed) JUAN his x mark. DUQUE.

Subscribed by mark and sworn to before — this 14 day of July, 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

57 *Testimony of Refugio Martinez, Witness for Prosecution.*

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JESUS GUERRA.

In extradition. Witness for prosecution.

Testimony of Refugio Martinez.

Witness said his name was Refugio Martinez. He was thirty years old. Bassilio Martinez is his father, he said. He li-es in Guerro, he said; he was born there. Witness said he saw the prisoner at San Ygnacio, Mexico, the 10th day of December, 1892. He was there when the barracks were burnt. He was there amongst the men, witness said—amongst the bandits. Some of the leaders of those bandits were Maximo Martinez, Baldomero Palacio, Rafael Ramirez, Frank Benevidas, Mario Hernandez, Tomas Cuellar, Procopio Guiterrez. That is all he remembered. He saw the prisoner with the people, armed and on horseback, standing still with the men, after the fight, where they took me prisoner to the woods. He saw him also on this side when they brought him over as prisoner. They kept him prisoner about eight days and he saw the prisoner nearly every day. He did not guard the prisoners, though. Other men guarded them, but he saw the prisoner there among the men, armed all the time. Witness was asked about how many bandits made the assault on San Ygnacio. He said about 140 or 130 men. They were armed with carbines or guns; most all — them were twelve and sixteen shooters. Witness did not notice what kind of a gun Garza had; did not know whether it was black or yellow. He did not know who made the attack, but he heard Maximo. He was then asked what party made the attack, and he

said the bandits made the attack. Witness did not know how they fired, because he shut himself up in Ramon Guiterrez' house. That house was not burnt. He said he came out of the house of his own accord. He said when he came out he saw the box of a cart belonging to his father, and he was trying to move it away from the fire when Maximo took him prisoner. He came up behind him and told him to go on and he had to go. They took two other prisoners, he said. They took Pedro Salinas and Damasio Martinez. He and Pedro Salinas were citizens and Damasio Martinez was a rural guard. Witness was so scared he did not know whether there were any people killed or not, but as they took him prisoner he saw some soldiers with some men and they were wounded in their faces. He was then asked if there were any houses burnt, and he said there were; his house was burnt and the quarters belonging to Ramona Gonzales and the little store belonging to Bassilio Martinez. Ramona Gonzales was a property-holder, he said, but the Government were occupying her house as barracks. Witness saw the bandits take out some sausage and eatables from the house where he was, but after he was brought to this side as a prisoner he saw some horses and saddles and Remingtons that the bandits had brought over from San Ygnacio with them. The horses were marked number five and he recognized them. Witness said that the cart he was working at was just the box of a horse cart, but they had an ox cart where they kept their provisions. He did not see anybody take anything out of the ox cart.

58 Cross-examination:

Witness was asked what a rural guard in Mexico is. He said he could not explain; he had been told they were men to do errands. They have their own officers; they dressed as an officer is dressed. If Capt. Segura, he said, ordered these guards to go out on scouts up and down the river, they went. Witness said he and Pedro Salinas lived near together, but not in the same house. Witness said nothing prevented the bandits from robbing everything in the houses that were left; they could have taken everything if they had wanted to. Witness said he did not know how many people live on the frontier of that country in Tamaulitas, but there are a good many ranches. Witness was asked if the bandits ever robbed or killed anybody except at the barracks. He said he did not know; he did not know whether the citizens fought the revolutionists or not, and he would not say what he did not know, he said. Witness said he did not see Jesus Guerra during the fight, for he was in the house then, but he saw him after the fight with the men when they took him prisoner. Witness said he did not know about the firing, for he was in the kitchen eating when the attack was made, but he heard the firing, and it seemed to be both sides. Witness was asked if nearly every man in that country did not carry a pistol. He said some did and some did not. If they had them and wanted to carry them, they did. He was asked if he did not

carry arms when going around that country. He said he had no enemies and no arms, so he did not use them. Witness said he was kept prisoner eight days on this side, but Jesus Guerra never guarded him; soldiers guarded him, and he thought the prisoner must have been some higher officer. The men were all subject to Frank Benevidas; they called him General. Witness did not know who was colonel, and he said they called lots of them captain. Witness said it was not a fixed camp there; they were here one day and there the next, but always near around. Two or three men went off at a time; they might have been going for provisions; he did not know. Witness did not see any banners displayed at San Ygnacio; did not see any ensigns on their hats. Mexican soldiers did not have any flag; at least, he did not see any. Witness said the only rural guard they brought over as prisoner was Damasio Martinez. He said they only brought Damasio Martinez, Pedro Salinas, and himself over as prisoners; that was all he saw. They must have set the others free.

Re-examination:

Witness was asked if these bandits had a red band around their hats, and he said they did. It might have been a piece of cloth; he did not know. Jesus Guerra had one of those bands; all of them had them.

(Signed) REFUGIO MARTINEZ.

Subscribed and sworn to before me this 19th day of June, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Dario Hernandez, Witness for Prosecution.

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JESUS GUERRA.

In extradition. Witness for prosecution.

Testimony of Dario Hernandez.

Witness said: My name is Dario Hernandez. I am 38 years old. I live at San Ygnacio, Zapata county, Texas. I call myself an American citizen because I have lived in the county for 25 years. I know Jesus Guerra by sight; that is he sitting over there (witness points to the prisoner). I first saw him here in Texas. I saw him on the 10th of Dec., '92. I was in the San Ygnacio fight. Jesus Guerra was there. He was armed and was Benevidas' staff. Benevidas was the leader of the attack on San Ygnacio. There were 100 and some odd men in that party. I was with them. We crossed over the river going from Texas to Mexico about nine or ten o'clock in the morning on the 10th of

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December, '92. We crossed over the ranch of San Ygnacio, about four miles. We were on horseback and were armed. Our leader was Francisco Benevidas. I saw the defendant there. We attacked the ranch about eleven or twelve o'clock. The attack was made shooting. We advanced to the barracks where the soldiers were on foot. The result of the fight was arson. I do not know who set it on fire.

Q. Was it set on fire by the Benevidas men or by the soldiers of the government?

Defendant objects because he said he did not know who set it on fire.

A. I do not know whether one on the inside or outside set it on fire.

Witness said there were about two of the outside party killed and about four or five of the inside party.

Witness said there were four wounded of the outside party and two dead. The one- that were dead were Ismatiel Tyerina and Nevas Longorio. Blas Hinojosa was wounded, and he did not remember the others. There were about sixteen men of the inside party taken prisoners. They were Vicenti Martinez, Bassilio Martinez, Refugio Martinez, Pedro Salinas, Stefan Garcia, Lucio Garcia, Juan Martinez, and Alguna Martinez. They brought only three to this side: they were Damasio Martinez, Refugio Martinez, and Pedro Salinas. Damasio Martinez was kept a prisoner with them for about a month, and the others only about eight or ten days. Witness did not see any arms or saddles or horses taken prisoner. Witness knew the prisoner since '91. Witness said he saw him in Dec., '91, and saw him again in the latter part of May, and then saw him again in '92. Witness was not well acquainted with him *on t* knew him by sight, but was sure he saw him in the San Ygnacio fight. Witness saw him standing with Benevidas' staff. He was mounted and armed. Witness staid until the last day of December, and Guerra was with the bandits yet.

Cross-examination:

Witness said: I saw Catarina Garza once. I was in Catarina Garza's command; do not know who was next in command to Garza. I was only with the people for nine days in '91 and joined them again in '92. Some of them were the same people, and they had the same commander.

Q. What were the aims, objects, and purposes of the Garza revolution?

Prosecution objects, as it is irrelevant and immaterial.

A. I do not know. I heard them talking, but don't remember what they said.

I do not know, because two days after I joined the army they crossed to the other side. We thought that Garza was still with us.

Witness was asked what was the object of Benevidas moving

across the river. He said he did not know, because they did not tell him. He said they only fought against the soldiers of Mexico, not the citizens.

Q. How were Garza's men organized, in companies and regiments?

Prosecution objects, as it is immaterial and irrelevant.

A. Into companies.

Q. Colonels and generals in the army?

Prosecution objects for the same reason as stated above.

A. I do not know. The principal man there was Garza.
60 Garza was recognized as the general in command. I was a captain in the army; in the troops under Benevidas, not under Garza. They crossed the river to fight the soldiers of the Mexican government.

Q. Were you not present when Garza presented a flag to his men?

Prosecution objects; it is immaterial and irrelevant.

A. No, sir.

Witness said he was not present when either Garza or Benevidas made a speech before they went across the Rio Grande. Witness had a pistol at the battle of San Ygnacio, but did not go into the fight. He staid outside with the staff and gave his carbine to a boy who did not have any. Witness said there was a good deal of firing on both sides. The fight lasted about an hour and a half. Witness said they had no orders not to interfere with the citizens over on the other side of the river, but they knew it naturally and did not interfere with them. Witness said after he came on this side he gave himself up to the authorities, in January, after the battle in December. He said he was indicted in the court above as a Garza revolutionist, but he turned State's evidence and got his liberty. He thought he was guilty as much as the others. That was the reason he gave himself up.

Re-examination:

Witness was then asked if he did not state that the movement of Benevidas was entirely distinct from that of Garza. He answered he did not know, but that was his understanding. Never heard that Garza was anywhere near Benevidas at the fight of San Ygnacio. Garza did not have anything to do with the raid of Benevidas. He had not seen Garza for a year before that.

(Signed) DARIO HERNANDEZ.

Subscribed and sworn to before me this 20th day of June, 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Bassillio Martinez, Witness for Prosecution.

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JESUS GUERRA.

In extradition. Witness for prosecution.

Testimony of Bassillio Martinez.

Witness said: My name is Bassillio Martinez. I am 62 years old. I live at the Tamaulitas, in Mexico. I was born there and raised there. I knew of a ranch of San Ygnacio. I was at San Ygnacio, Mexico, on the 10th of December, 1892. I heard Jesus Guerra's name mentioned there. I do not know the prisoner personally, but heard his name mentioned there. I remember the assault on San Ygnacio. It was on the 10th of December, 1892, about twelve o'clock, more or less. The assault was made by the men on this side. They were about 100 in number. I do not know anything about the principal men, because they assaulted like the Indians in olden times. The Indians came up and attacked you before you were aware of it.

The men were armed with carbines. I did not see any pis-
61 tols. There were six or seven soldiers killed and two officers.

The officers were Capt. Rutillio Segura and Manuello Auribio. Some of the soldiers were wounded. I do not know if any of the bandits were killed or wounded or not. Myself and two sons were captured, but my son Juan and myself were taken together and Refugio by himself. Refugio was taken prisoner to this side, Refugio and Pedro Salinas and Damasio Martinez. Maximo Martinez struck me and my son-in-law. After we were captured we were sitting down and Maximo came running at us like a wild beast, and said it was on account of us that his family was suffering, and he hit my son in the head and struck at me and hit me on the arm. My son was hurt very badly; the knock felled him, but he got up right away. There was quite a lot of blood from his head. There was lots of blood from my arm, too. After that he took us where the horses were and turned us all loose. They brought to this — Refugio Martinez, Pedro Selinas, and Damasio Martinez. I did not see anything robbed or stolen, only the horses of the soldiers. I do not know how many. They burnt the house of Refugio Martinez and a little store there. They burnt the barracks; it belonged to Ramona Gonzales. She was a ranch-owner. I had some goods there. What did not burn up the bandits took out in an ox cart. They took some sugar, some flour, and a box of soap. They also took some grain that I had and some things in the ox cart. All that I had there burnt up. It consisted of beans, sugar, coffee, mescale, and other articles, articles to eat and drink. I had about $100.00 worth in all. I had $60.00 worth in the cart and had unloaded about half of it. I did not see Francisco Benevidas there.

I saw Maximo Martinez. I have known him ever since he was born, you might say. I did not see who set the house on fire, but the voice sounded like Maximo's.

Cross-examination:

Witness said: I sold groceries there to the soldiers by the permission of the owner of the ranch, and Capt. Segura told me I could sell them, too. My store was about four or five feet from the barracks, only a little ways off.

Q. Have you heard of Garza revolution down there on the Rio Grande at that time?

Prosecution objects, as it is immaterial and irrelevant, not connected with case.

A. I do not know. I heard of a revolution, but was with my cattle in the pasture.

I heard Catarina Garza's name mentioned; did not hear of Francisco Benevidas.

Q. How many revolutions have been going on in that country since you were born?

Prosecution objects; it is immaterial and irrelevant.

A. Several. I do not remember.

Q. Do you remember one in '71 and '72?

Prosecution objects for the same reason stated above.

A. At that time I lived on this side.

Q. Did you hear of one on this side to go against Mexico?

Prosecution objects for the same reason stated above.

A. Did not know anything about it.

Q. Did you know of one in '76, headed by Porfirio Diaz?

Prosecution objects for the same reason stated above.

A. I was on this side.

—. Did you hear of that revolution?

Same objection.

A. I heard say that there was a revolution, but I was on this side. I was on the edge of the Rio Grande, among Mexican people. They said there was a revolution on the other side, but we never passed across; always staid on this side.

62 Some of the people on the Rio Grande carry pistol- and some do not; if they have them and want to carry them they do. There were four or five houses left standing at San Ygnacio; they burnt me out, and I left. I know where the Martineinio is. There are about thirty-odd families there. I staid there the night after the San Ygnacio fight to have my arm treated. I was going to Guerra. I do not know whether there were any houses burnt there or citizens disturbed or not.

(Signed) BACILIO MARTINEZ.

Subscribed and sworn to before me this 20th day of June, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Pablo Longorio, Witness for Prosecution.

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JESUS GUERRA.

Witness for prosecution.

Testimony of Pablo Longorio.

Witness said his name was Pablo Longorio, and he was 39 years old; he lived at present on the Rio Grande, but he has his family in Duval county; he expects to move down there. Witness said he knew the defendant; his name is Jesus Guerra; he had known him by sight for some time, but been acquainted with him only for a short time. He had known him by sight for ten or twelve years, and been acquainted with him since '91; he first saw him at Nueva Leon, Mexico, but don't know whether he lived there or not, and don't know what business he was in; he saw him at several places. He said he first became acquainted with the prisoner in Garza's men at the cat of Gato, in '91; he saw him from November till the 30th day of December; he was there in union with the men, and he said the first time he saw him after that was here in San Antonio, in the court. Witness said he conversed with the defendant sometimes while he was with Garza. Witness said the defendant did not speak English at all, he thought, but was not certain. Witness said Guerra was a Mexican citizen when he knew him. Witness said he did not know anything about the San Ygnacio fight, as he was here in court. Witness said he never had a conversation with the defendant about the San Ygnacio fight.

Cross-examination:

Witness was asked who Garza was. He said he was a general from Matamoras named Garza. Witness was asked where he lived then, and what he was doing. He lived, witness said, at Palito Blanco, Sarragossa, Duval county. He had several occupations; at that time he was with some men. Witness was asked if he was one of Garza's organized men. He said he had his contract, and the others had theirs; he did not know what they had to do. When witness quitted them there were about 200.

They were organized at Gatho camp, about sixteen leagues from the Rio Grande, in Texas. Catarino Garza was in command of those men, and Juan Antonio Flores came next; then there were several others in command.

Witness was asked if he knew Juan Antonio Flores Guittierez. He

said he — Juan Flores; did not know if it was Gutteirez or not. He was then asked if these men were organized into regiments
63 and companies. He said he did not know what they were, as he was not a soldier.

Q. Did they have colonels and captains in command?

Prosecution objects, as the question is leading.

A. They had captains and colonels, at least they called them so, but they were not organized into line; some of the men were armed and some were not; I do not want to tell a falsehood.

his
(Signed) PABLO x LONGORIO.
mark.

Witness was asked if they were on horseback or on foot; he said they were sometimes on horseback and sometimes on foot. Witness said he saw the flag that Catarina Garza presented to his men; it had three colors; he was not sure how large; he did not measure it.

Q. Was it a regular Mexican banner?

Prosecution objects, as it is irrelevant.

A. I saw it in Texas.

Q. Was it not the same as the banner that floats over Dr. Ornelas' office in this city?

Prosecution objects to all testimony about the flag, as it is irrelevant.

Q. On a pole or not?

Prosecution objects to all testimony about the flag as irrelevant.

A. I saw it on a pole.

Witness was asked if it was not unfurled before those men when they were in line of battle; he said, They were not in line; they were standing there. Witness said he did not know whether Garza made a speech or not; he don't know what a speech is. Defending counsel asked him if he did not tell him and the interpreter about ten days before that he saw Catarina Garza make a patriotic speech and present the banner to his men and tell him to carry it into Mexico against President Diaz; witness said he told him that Garza talked. Witness was then asked if he did not say that Garza made a grand patriotic appeal to the men to carry the flag across the river into Mexico against Diaz. Witness said he did not know what patriotic was. Witness was asked if he was not indicted in the Federal court as one of Garza's revolutionists; he said he was not. He was then asked if he did not turn State's evidence and get his liberty; he said he did not want to go against the neutrality law, so when Garza separated from his men he separated also. Witness said he was not in the Tortillas fight. Witness was asked if when he was with the Garza revolutionists he had robbed or kidnapped any one; he said of the thirty men with him nobody could complain. Witness was asked what he went over there for; he said because they paid him, and if anybody paid him to do anything

and he wanted to do it he would. Witness said if any one offered him more money to — something for him than he was getting at his work, then he would do it if the work suited him. Witness said Garza offered him money, so he went. He was then asked how much money, and he said that was agreed upon between him and Garza. Sometimes he might ask him twenty-five dollars a day and sometimes fifty. Witness said he did not work for payments the next day; when he worked he got his money the same day. Witness was asked then if he would not quit any person if anybody else offered him more money; witness answered if the work suits him he would; that is natural.

(Signed) his PABLO x LONGORIO. mark.

Subscribed (by mark) and sworn to before me this 19th day of June, 1894.

(Signed) L. F. PRICE, *U. S. Comm'r.*

64 *Testimony of Eulogio J. Martinez, Witness for Prosecution.*

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JESUS GUERRA.

In extradition. Witness for prosecution.

Testimony of Eulogio J. Martinez.

Witness said his name was Eulogio J. Martinez; he was 59 years old; he lives at San Ygnacio; is the owner of that ranch. He said he had lived there twelve years growing on thirteen. Witness said the barracks were burnt on the 10th of December, 1892. He had just killed a hog and was frying it when the bandits came. They were about 150 in number, and Frank Benevidas and Maximo Martinez were at their head. They fought with the forces of the Sixth regiment cavalry. The bandits were in command of that party. The regiment was under the command of Capt. Rutillio Segura; he had forty-odd men. The fight began about eleven or twelve o'clock aday. The bandits made the attack; they were armed with carbines; they came on foot, he said, and afterwards brought their horses. They left their horses at first near the ranch, about 400 paces off. Witness said that the first ones that he observed firing were the bandits, but there was firing on both sides. Witness said there were about ten of the forces killed and about two bandits. He said there were twelve or thirteen wounded; he could not say exactly how many. Witness said the barracks were burnt and Refugio Martinez' house and a little store belonging to Bassillio Martinez. The bandits burnt that house, witness said. Witness was then asked to give the names of some of those who were killed.

He said he remembered Rutillio Segura, first lieutenant, and Second Lieutenant Cavaris; he did not remember the others. He said seven bodies were burnt. Witness said he burried these men, the bandits as well as the soldiers; he burried them altogether in one grave; he burried them on the 11th of December, the next day. Witness said a nephew of his and a neighbor helped him to burry them. They were Perfidio Leal and Felito Martinez. The next day after the fight, witness said, the captain came and gave him the order to bury the men; there were about seventy men with him. Witness said on the 10th there were robberies committed. Witness said at his house Maximo took $7.50 in silver away from his wife. He said his wife was not connected in any way with the army. He said they also took two blankets belonging to him; he did not know about any of the other houses, because he was not in them. They took 40 horses from the soldiers, he said, and 4 horses from the rural guards. They burnt most of the saddles, he said, but what they did not burn they took. He said they took all the arms except two carbines; one one of the soldiers had taken off and brought back the next day, and the other was hidden among the dishes. Witness said the bandits took some prisoners; those he remembered were Damasio Martinez, Pedro Salinas, and Rafael Martinez. Pedro Salinas was a citizen and his son-in-law, he said; Rafael Martinez was not a soldier. The bandits brought the prisoners over. Witness said his ranch, San Ygnacio, was in Tamalitas State.

Cross-examination:

Witness said he did not see the defendant there, but heard his name called. He said he had never seen the defendant before, but heard his name mentioned. He was then asked how he knew he heard this same man's name mentioned; to which he answered he did not know, but he heard the name Jesus Guerra. He said it might have been this one and might have been another one; he did not know; he never saw the prisoner before.

65 Witness said when the firing began he went into his house with his family, for he wanted to see that they were safe. He was then asked if some one did not call to them to come out of his house or they would be burnt up. He said they did not call him. He was then asked if he did not swear in the other trial that Maximo Martinez came and called to him to come out to keep from being burnt to death. Witness said he did not remember. He was asked if he remembered what he swore to before. Witness answered, Of what? Witness said Maximo told the family once to come out of the house. Witness said he was never a rural guard, and his sons were not, either. He said there were about five jackals left standing after the fight. He said he did not know whether they took anything from the other citizens or not. Witness said the bandits did not search the house at all. He said the battle lasted about three or four hours. He said he was inside and did not see the shooting, but he heard it, and he thinks there was shooting back and forth on

both sides. The citizens did not take part in it; at least he did not observe any. He said the company that came up next day after the fight were soldiers of the Thirteenth regiment; they came from Laredo. He said Laredo is about fourteen leagues from San Ygnacio. The soldiers went to San Ygnacio, he said, to help them, to look for Benevidas' men, but only on the frontier. Witness said on the lower side of his ranch is the Martineinio ranch and on the north side is San José, but all the ranches are far from his, he said. Witness said the citizens at those other ranches were not robbed or disturbed. The fight was between the Mexican soldiers and the revolutionists. Witness said there was nothing that he knew of to prevent the bandits from robbing everybody, but they did not. Witness was never taken prisoner. Witness said he was raised at the Martineinio and lived there twelve or thirteen years.

Q. How many revolutions have there been since you were born?

Prosecution objects, as it is irrelevant and immaterial.

A. I heard them say lots, but I never mixed with any of them.

Witness said Benevidas' men were armed with carbines, black and yellow; he said they must have had pistols, but he did not see them. He said the bandits left on horseback. He said the soldiers were armed with Remingtons, with one shot. The officers had one pistol, and one of them had a sable. He did not see any flags on either side.

Re-examination:

Witness was asked if he said he heard this man called Guerra. He said he heard the name Jesus Guerra. He did not hear any one answer to the name, but he heard it called among themselves, among other names. He said it was not when they were calling the roll when he heard the name, but it must have been just in their passing each other.

(Signed) EULOGIO J. MARTINEZ.

Subscribed and sworn to before me this 19th day of June, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

66 *Testimony of Damasio Martinez, Witness for Prosecution.*

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JESUS GUERRA.

In extradition. Testimony for prosecution.

Testimony of Damasio Martinez.

Witness said: My name is Damasio Martinez. I live at Laredo, Mexico. I am 58 years old. I have lived there ever since I was

born. I am acquainted with the San Ygnacio ranch and remember an assault made there on the 10th of December, a year ago last December. I know the prisoner. His name is Jesus Guerra. I have known him since the day of the fight of San Ygnacio and first saw him there. I saw him there horseback when I came from the Martinienio. He was armed. I was taken prisoner that day by Inez Ruiz and Baldomero Palacio. When I got to San Ygnacio the fight was over—the men were gathering together the wounded. They brought me and a lot of boys from the ranch of Tomisento and took us prisoners. The others that they brought from the Martienienio they gave their liberty. Martineinio is a little more than a league from San Ygnacio. I was brought to this side as a prisoner together with Refugio Martinez and Pedro Salinas. They were citizens and I was a rural guard. They kept me prisoner a month and about eight or nine days. I saw Jesus Guerra there on the day of the fight. He was armed. He was dressed like a "ranchero." He was with Pancho Benevidas' men, with the bandits. He was on horseback. The bandits came over to this side about an hour or hour and a half after the attack. Jesus Guerra came to this side. I saw him pretty near every day for a month. I am sure this is the man. I do not know whether he was an officer or private in the bandits' army. Witness said: He did not remember anything in the bandits' appearance different from other people, except some of them had red bands around their hats. He did not remember whether the prisoner had one or not. He saw two bandits killed and four or five soldiers wounded. He saw property stolen by the bandits—saddles, blankets, and horses; about thirty horses. He also saw some carbines and sab*l*es. That was all he remembered. The bandits began to break up and he went off with another man to a place far off.

Cross-examination:

Witness said: I was in camp on this side of the river. There were about thirty men in the camp. Pancho Benevidas, Palencio Manasses was there. Most of the men there were officers. They claimed to be officers of the Garza revolution. They had guards in the camp like the Mexican soldiers, only the guards had more order. They — guards, sentinels, and corporal guards. They were armed with carbines and some had pistols. I did not see any sab*l*es or swords except what they took from the Mexican soldiers. I was placed down at the Martinienio by the Mexican government to look after the Garza revolutionists. The forces on the frontier on the Rio Grande were not reinforced by men from the interior. I went back to San Ygnacio after I was released and there were about fifty men there for reinforcements. I do not remember whether Jesus Guerra was along with the nine men that captured me or not. I was so scared I can't remember. I did not see him take part in the fight. He did not know whether the men, these bandits, could have robbed everything or not, but suppose they could, as there were no forces to keep them from it if they had wanted to. They did not kill or rob

any citizens. They captured the rural guards and they took
67 him prisoner. Witness was asked if the bandits could not have burned down the town and killed and robbed everybody if they had wanted to. He said he thought they could. Witness did not see any banners. He saw some red cloths around the hats of the bandits. The bandits brought away from the Martinienio with them two horses and a mare. Witness saw about four wounded soldiers. He heard the firing at San Ygnacio. The fight lasted about an hour and a half. The bandits gathered the soldiers they had captured together, then turned them loose. They turned about eight or ten, more or less, loose.

Re-examination:

Witness was asked what the bandits brought with them from the Martineinio. He said they brought two horses and a mare. The mare belonged to Vicenti Martinez and the horses to Pancho Martinez. They were citizens. The others that the bandits brought from the Martinienio were citizens. They were about eight or ten men.

(Signed) DAMASIO his x mark. MARTINEZ.

Subscribed and sworn to before me this 20th day of June, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Francisco Ramirez, Witness for Prosecution.

UNITED STATES OF AMERICA,
Western District of Texas.

In Re JESUS GUERRA.

In extradition. Witness for prosecution.

Testimony of Francisco Ramirez.

Witness said: My name is Francisco Ramirez and I am twenty-six years old. He said he knew something about the fight at San Ygnacio and that the prisoner was there at that time. He said he was with a company of Mexican soldiers under the command of Capt. Segura; they were camped there. There were fourty men in his company stationed there in a barracks; the barracks were mesquite trees and woods; they were in these barracks on the 10th of December, 1892, and had a fight with the bandits there on that day; the bandits were 130 in number; they came from the north side of the river; they were armed and used their arms against the soldiers; the bandits killed thirteen. Witness said they wounded some and took some prisoners. The fight lasted two hours and a half. He said when the bandits took them prisoners they took them

about 200 paces off to the other side, where they gathered all the prisoners, the wounded, and the citizens from the ranch. After the fight the bandits came to this side, he said, and brought with them Damasio Martinez, Rafael Martinez, Pedro Salinas. There were about twenty people arrested at San Ygnacio after the fight. When asked what became of the barracks he said they were burnt up by the bandits; about five people burnt in the barracks; they were wounded and were burnt inside the barracks. Witness said that the bandits took all the government property. When asked what they did with the property, he said they brought it to this side, horses and all. He was then asked if they kept it, and he said he did not know.

68 When asked how long he had been in the army he said, More than five years. When asked if he saw the defendant at San Ygnacio during the fight he said, Yes. He was then asked whether or not he saw him take part in the fight. He said he saw him with the other men coming from the Martinenia. He was then asked if it was during the fight or afterwards that he saw the prisoner. He said, Afterwards, with the other bandits, with Baldomeo Palacio. He was then asked if he could recognize any one in the fight and he said, yes, he could; he saw the prisoner. After the men were brought to this side, witness said, they staid on the banks of the river.

Cross-examination:

When asked how many prisoners he recognized in the fight witness said, Several. He saw Baldomeo Palacio, Francisco Benevidas, Heraro Sais, Inez Ruiz, Calas Caveras, and Jesus Guerra.

He said he never knew them before he saw them at the fight. When asked if he knew Francisco Benevidas before he said he knew him at the fight, not before. Witness said he knew some of them before; he knew Gerardo Sais, Maximo Martinez, and Baldomero Palacias. He said he did not know Guerra and Ruiz before. When asked if he remembered seeing their faces before he said, Yes. He was then asked what part of the fight these men were engaged in. He said he saw them with the prisoners. He was then told that he had already sworn he saw them in the fight and now to tell what part of the fight he saw them in. He said he saw Inez Ruiz about five paces off. He was then asked where he saw Jesus Guerra. He said he saw him with Baldomero Palacio and some others coming from the Martinenia. He said he saw them coming from there after the fight when they were prisoners. Witness said when they were captured the fight was over. He saw Guerra about five paces from where the prisoners were. He was then asked if he saw Guerra in the fight. He said he could not be on the lookout for everybody in the fight, but after the fight they were all there; nobody left, but he did not identify these men during the battle and did not remember any others, only by sight. He was then asked how he knew the prisoner was named Jesus Guerra. He said he heard Baldomero Palacio call him, and about a month before that he saw

him at the house of Baldomero Palacio. Witness said he never heard Rafael Martinez or Jose Cassiano mentioned; only the prisoner. Witness said the bandits fired the first shot and the soldiers fired back as soon as they saw the bandits and kept the firing up until their ammunition gave out. The bandits took the prisoners off about two hundred paces and turned them loose, then the soldiers and wounded passed to this side voluntarily. Witness said the bandits did not try to kill them, but turned them loose and they came to this side voluntarily. Witness said he saw two persons of the bandits killed and one house burnt besides the barracks. The house belonged to Bucilio Martinez and was about a pace or two from the barracks. Bassillio Martinez kept goods for sale for the soldiers in the house. The bandits took property from the citizens; they took clothes. Basilio Martinez lost everything. Witness saw them take things that did not belong to them; saw them take money from families; from the wives of the soldiers. Witness said he did not know who burnt the house. Witness said he had been in the army five years; he was sent from Aguas Calientes, his citizenship, before he went to the army and was at Silado de la Victoria.

Q. Why were you sent to the army?

Prosecution objects, as it is irrelevant and impertinent to the case.

A. Because he was a stranger, he thinks.

He was then asked if he was forced to go in the army and he said he was.

69 Q. Are not the soldiers in the Mexican army not most all criminals?

Prosecution objects; it is irrelevant, incompetent, and not necessary to the case; can't discredit the witness.

Witness was asked if the soldiers in the Mexican army were not forced. He said there might be more voluntary than forced. He was then asked if the soldiers were not most all criminals. He said he thought it, but, being a stranger, was not certain. Defendant said that, being there five years, the witness ought to know something about it. He then asked him if the soldiers were guarded in the army. Witness said there were different kinds; some were and some were not. He was then asked if he knew Nueva Hernandez. He said he did not. He was then asked if he was in his command, and he said he was not. Witness said he did not know anything about the trial carried on down there about the bandits.

Q. Were they tried by the military?

Prosecution objects, as there is better evidence than that, and it has nothing to do with this trial, and can be proved by the statutes of Mexico, not by common soldiers.

A. No, sir.

Witness said that the Martinenia was about half a league from San Ygnacio, and there were more houses there than at San Ygnacio. He said these houses were not burnt up by the bandits.

Witness said that besides the barracks and the house he told about there were several little jackals belonging to the soldiers' wives burnt up. Witness was asked if the bandits were organized like the Mexican soldiers. Witness said they were not. He was asked if it was because they did not have uniforms. He said they did not have uniforms and they were like bandits; did not have order; all talked together; could not tell who talked. He said they did not march in file like soldiers, went like bandits. He was then asked what a bandit is. Witness said a bandit is one who robs and kills and assassinates. A revolutionist has some standard. Bandits have no order and revolutionists do. Bandits fight anything that comes up. Witness was asked if the bandits did not fight against the soldiers of the Mexican government at San Ygnacio. He said that is all they fought. He was asked if Benevidas and his men fought the citizens over there. Witness said they only fought the soldiers. Witness was asked if the bandits robbed any citizens over there. He said they did; he had told them already. Witness was asked if the bandits made war on the citizens of Mexico. He said they did. Witness was asked if it was not on the soldiers at the barracks. He said it was on the citizens at the ranch. Witness was then asked if he had heard of Catarina Garza's revolution down there. He said he had not; only heard the name. He heard of the revolution- waging war against Mexico, and that was the reason they went to the edge of the river. They came from Aguas Calientes. Several regiments came to the front, he said, but it was a small force, about five hundred men in each regiment. Witness was asked if they came down there to disperse the Garza revolution. He said he did not know; they were sent there, and they went. Witness said they had not orders to fire on them and orders to arrest them, according to how they behaved; they had orders not to let any come out of the barracks when he was on guard. Witness said Capt. Segura had about fourty men under his command, armed with carbines and sables. Benevidas' men were armed with carbines and pistols.

Re-examination:

Witness said Capt. Segura was burnt up; he was killed at the finishing. Witness said the bandits were not in uniform and had no banners; the officers were not distinguished by any marks. There was no demand made to surrender before the fight commenced. The citizens brought to this side were Rafael Martinez, Damasio Martinez, and Pedro Salinas. They were citizens of Mexico. They were forced to come to this side of the river.

(Signed) F. RAMIREZ.

70 Subscribed and sworn to before me this 18th day of June, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Agapito Munoz, Witness for Defendant.

UNITED STATES OF AMERICA,
Western District of Texas.

In Re JESUS GUERRA.

In extradition. Witness for defendant.

Testimony of Agapito Munoz.

Witness said: My name is Agapito Munoz; I live on the Quevitas, in Starr county; I have lived there twenty-eight years. I know Jesus Guerra; knew him in December, last year. I do not know how many leagues I live from San Ygnacio. I know Catarino Garza. I know Francisco Benevidas.

Q. Do you know anything about the revolution organized down there against the Republic of Mexico?

Prosecuting counsel objects because it is irrelevant and immaterial; was twelve months before the transaction *before the transaction* we are interested in, and has no connection with the case.

Q. Did you know it as such?

Prosecuting counsel objects for the same reason stated before, and, further, his answer is hearsay.

Witness was asked if he saw Garza or Benevidas during the time. He said he saw Francisco Benevidas. He came through the Quevitas alone. He never saw him with any men.

No cross-examination.

(Signed) AGAPITO MUNOZ.

Subscribed and sworn to before me this 21st day of June, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Juan Maldonado, Witness for Defendant.

UNITED STATES OF AMERICA,
Western District of Texas.

In Re JESUS GUERRA.

In extradition. Witness for defendant.

Testimony of Juan Maldonado.

Witness said: My name is Juan Maldonado; I live at the Ronan, Starr Co., Texas; I have lived there thirty years. I know Jesus Guerra; have known him four or five years on this side. He saw him at different places working. Witness said he was engaged with

Garza only for a short time—about ten or twelve days. Pancho Benevidas was in command of that expedition at that time. They said Prudencio Gonzales was senior general. There were nearly 200 men under Benevidas at that time. Pablo Morin was our captain. We were armed with pistols and guns and were on horseback. Witness said they were organized to dethrone Diaz.

Prosecuting counsel objects to the answer; it is hearsay.

Witness said Diaz was president of Mexico. Witness was asked if they were organized to do anything else—to fight against
71 citizens. He said no; not against the citizens.

No cross-examination.

Prosecuting counsel moves to have the witness' testimony crossed out, as it is irrelevant and immaterial.

(Signed) his JUAN x MALDONADO. mark.

Subscribed (by mark) and sworn to before me this 21st day of June, 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Librado Gutierez, Witness for Defendant.

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JESUS GUERRA.

In extradition. Witness for defendant.

Testimony of Librado Gutierez.

Witness said: My name is Librado Gutierez. I live in Zapata county, and have lived there since '65. I am 28 years old now, growing on twenty-nine.

Q. Do you know anything about the organization on Rio Grande in '91 and '92?

Prosecution objects, as it is irrelevant and immaterial.

A. I know it from Garza; he invited me in '91.

Prosecuting counsel objects to the answer; it is hearsay.

Witness was asked if he was with Garza's men; he said he was.

Q. Were they organized; if so, how?

Prosecuting counsel objects for the same reason stated above.

A. When I went they were organized.

Q. How long were you with them?

Prosecuting counsel objects for the same reason as stated above.

A. Four or five days in '91.
Q. What were they organized for?

Prosecuting counsel objects for the same reason stated above.

A. To cross over to Mexico.
Q. What to do?

Prosecuting counsel objects for the same reason stated above.

A. I understood it was to fight with the Mexican soldiers.
Q. Against the government of Mexico, President Diaz?

Prosecuting counsel objects for the same reason as stated before.

A. Yes, sir.
Q. How were those men armed?

Prosecuting counsel objects for the same reason as stated before.

A. Carbines and pistols.

Witness said the men were most of them on horseback. Witness said he knew Francisco Benevidas in '92.

Q. Where did you see any flags in that command of Garza?

Prosecuting counsel objects for the same reason stated before.

A. I saw one flag in '91.
Q. Describe the flag.

Prosecuting counsel objects to anything further about flags because it was in '91, more than a year before this transaction, and it is irrelevant and immaterial.

A. It was cloth of three colors.
72 Q. How large?

Prosecuting counsel objects for the same reason stated before.

A. More or less, two varoes.

Witness was asked if the bandits had any signs or ensigns about their person. He said they wore sashes of three colors tied around their shoulders and under their arms.

Witness was here shown some pieces of cloth with printing on them and asked if he saw anything like them. He said he did.

Prosecuting counsel objects to all this in regard to these rags, because it took place more than a year before the San Ygnacio fight and is irrelevant and immaterial.

Witness said the cloths were worn on the hat.

Q. What are the words on that cloth? (Witness is shown one of the cloths.)

Prosecution objects for the same reason as stated before.

A. Free frontiersman.
Q. Is that the name that was worn on each soldier in the Garza revolution?

Prosecuting counsel objects for the same reason stated before.

A. Some had them and others did not.

Q. Did you see anything like that (showing him another cloth)?

A. Yes, sir.

Witness said the words on the cloth were "Liberty of Saragossa" in English.

Q. What colors on the large flag they had there?

Prosecuting counsel objects for the same reason as stated before.

A. White, red, and green.

Q. What country or nation is that the banner of?

Prosecuting counsel objects for the same reason stated before.

A. I knew it in Mexico—Republic of Mexico.

Q. Were those men he was organized with organized to fight under that banner in that country?

Prosecuting counsel objects; it is irrelevant and immaterial and more than a year before this transaction, and, further, it is leading.

Q. What were — organized for?

Prosecuting counsel objects for the same reason stated before.

A. To pass over to the other side and fight with the Mexican soldiers.

Q. What was the object of those fighting under that flag?

Prosecuting counsel objects for the same reason stated before, and, furthermore, it would only be the opinion of the witness.

A. I do not know all their objects. They told me they were going across to fight against the Mexican government.

Procopio Pano was his captain, the witness said, and Prudencio Gonzales and Carmen Ibanez were the colonels. Catarino Garza was the general-in-chief in command.

Witness said he was at the battle of San Ygnacio. He knew Jesus Guerra in '93. When we got together to pass over the river is when I knew him, witness said.

Q. How many men organized in that command under Garza?

Prosecuting counsel objects for the same reason stated before.

A. In '91, when Garza was with us, 140 or 150, more or less.

Cross-examination:

Witness said: My name is Librado Gutierez. I am not related in any way to the prisoner. I saw the prisoner for the first time when we began to gather to go across the river. It was about two or three months before the San Ygnacio fight. I saw him the day of the fight of San Ygnacio. He crossed over to the other side with us, but I don't know how he acted in the fight. I saw him at the last of the fight going here and there. He was armed; he had a gun in his hand. He was on foot. He was there with the crowd. There were 110, more or less. Their leader was Francisco Benevidas. I do not know what rank Jesus Guerra had. I saw Maximo

Martinez; did not see him set the barracks on fire; did not see anybody set it on fire.

73 I was born in Guerero, Mexico, in '65; came over the same year to Texas. My father and mother told me they brought me over in that year. My father is dead. I believe he was born in Texas, but am not sure. I was six years old when my father died. My mother is living. I am married and my wife lives at Somicenti, Texas, Zapata county. I have some children. I was arrested as a revolutionist, was tried here in the Federal court, and sentenced to twelve months' imprisonment in the county jail, and served out my term. Jesus Guerra came over to this side with us after the San Ygnacio fight; but I do not know — long he staid with them, for the same day I left them and went home. Witness was asked what he got in the way of booty at the San Ygnacio fight. He said nothing but two carbines that a man gave him. They got no horses, saddles, money, or nothing else.

Witness was asked if he was certain the prisoner was the same man he saw at San Ygnacio. He said he was; it was Jesus Guerra.

(Signed) LIBRADO GUTIERREZ.

Subscribed and sworn to before me this 21st day of June, 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Blas Hinojosa, Witness for Defendant.

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JESUS GUERRA.

In extradition. Witness for defendant.

Testimony of Blas Hinojosa.

Witness said: My name is Blas Hinojosa. I live at Lopena ranch. I have lived there five years. I am an American citizen, because I took out my registration papers and vote here. I know Jesus Guerra. I have known him over five years. I saw him at different places, at the Salado and Colorado. I do not know anything about the Garza revolution in '91 and '92, only what I saw in the newspapers.

Q. Did you see any proclamations?

Prosecuting counsel objects because it is leading.

A. I saw lots of manifests and proclamations.

Witness was asked if he never saw the men when they were organized. He said he did not. He was then asked if there were not a good many people living on both sides of the Rio Grande and if they were American or Mexican citizens. Witness said, There were a great many. They were most of them Mexicans, but

American citizens because they voted. He was then asked if their sympathy was with the revolutionists against the government or not. He said it was.

Q. Was the sympathy among those people for the revolutionists or the government of Mexico?

Prosecuting counsel objects because it is irrelevant and immaterial and has nothing to do with the case.

A. They sympathized with the revolutionists. The majority of Mexicans said it was a good business.

Cross-examination:

Witness was asked if he thought a person was an American citizen if they registered. He said he did not know, but he
74 thought so. He was then asked if a man could not vote without being an American citizen. He said he thought not.

Witness said he was registered at Rio Grande City by the county clerk, Mr. Marx. He only got one paper; he had it at his home; he had never read it, because it was English and he could not read English, but they had read it to him. Witness said he had lived in Texas since '76. He was born on the other side, he thought, but was brought over the same year. He said he was twenty-nine years old. Witness said his father lives at the Enramada ranch. Witness said he first met Jesus Guerra at the Salado, Starr county, about five years ago, in '88 or '89; was not sure which. I saw him there. I was there on some business with some horses. I saw him again at Ronan. I saw him at several other times. I had a store at the Colorado and he came there. He was gathering beeves. He had a butcher shop. Witness was asked what his name was. He said Blas Hinojosa. He was then asked if he was in any way connected with the raid on San Ygnacio, know anything about it, or had any personal knowledge of the fight. Witness said he did not know anything about it.

Re-examination:

Witness was asked what property he and his father had in Texas. Witness said he has a ranch at Lopena and some land there. His father has no property there. He said he has some beeves also.

Prosecuting counsel moves that the witness' testimony be struck out as being irrelevant and immaterial.

(Signed) BLAS HINOJOSA.

Subscribed and sworn to before me this 21st day of June, 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Ricardo Granados, Witness for Defendant.

UNITED STATES OF AMERICA,
Western District of Texas.

In Re JESUS GUERRA.

In extradition. Witness for defendant.

Testimony of Ricardo Granados.

Witness said:

My name is Ricardo Granados. I live in San Antonio, 172 North street. Before I came here I lived in the city of Mexico. I am a citizen of the Republic. I have been an official in that office. I was chief clerk and afterwards private engineer. Before I came to San Antonio I was editor of a newspaper called "La Republica." In politics it was termed a liberal independent newspaper. It was suppressed by the order of President Diaz.

Q. What was his objection to the paper?

Prosecuting counsel objects. It is immaterial and irrelevant; has no connection with the case of Jesus Guerra.

A. The last article before it was suppressed was an article criticising the police, the manner in which they had suppressed another newspaper.

Q. How many newspapers had they suppressed in the city of Mexico?

Prosecuting counsel objects for the same reason stated before.

A. Six or eight; at least six.

Q. What did they do with the editors?

Prosecuting counsel objects for the same reason stated before.

75 A. Nearly all of them are in prison except Mr. Garza Gutierrez and myself. We escaped and they did not catch us.

Q. Then you cannot go back to Mexico on account of what you published, and your paper was suppressed?

A. Yes.

Prosecuting counsel objects to encumbering the record of the court with irrelevant matter.

Witness said he was raised in Mexico. He said he was 43 years old now. When asked if he knew anything about the revolution of Diaz, he said, Very much.

Q. What were the aims, objects, and purposes of that revolution?

Prosecuting counsel objects to all testimony in regard to the so-called revolution of Diaz because that instance occurred more than sixteen years before the raid at San Ygnacio, and because the defendant here, Jesus Guerra, is not shown to have been connected

with that revolution, and because there is nothing in those matters that can tend to prove any facts material to this case, and because the events of that so-called revolution are matters of public history, known to this court and to the Secretary of State, at Washington, and can have no bearing whatever upon the issue before the court.

Q. How many revolutions have there been in Mexico?

Court objects to the question.

Q. How many revolutions has Mr. Diaz been engaged in?

Prosec-ting counsel objects for the same reason stated before.

A. Two since the fall of the empire.

Witness said Diaz had been in two revolutions. The last one, in '76, was againt Lerdo Tajado; it was organized in Texas.

Q. What were the aims, objects, and purposes of that revolution of Diaz in '76?

Prosecuting counsel objects for the same reason stated before.

A. Especially for no re-election.

Q. Do you know what the aims, objects, and purposes of Garza's revolution in '91 were?

Prosecuting counsel objects for the same reason stated before.

A. It was a great revolution on the same plan as the one started afterwards.

Q. You saw the proclamations. What — the difference, if any, between them?

Prosecuting counsel objects because the best evidence of their difference is the two proclamations, so we could compare them and see what the difference is. Object because it is not the way to prove it.

A. The one that Garza raised had the same idea as the one of Diaz against Lerdo.

PROSECUTING COUNSEL: I move to strike out the testimony of this witness, Ricardo Gonzales, because he has testified to nothing that is material to the case or nothing that has the remotest bearing upon the case, and the whole of it is irrelevant and immaterial.

(Signed) R. G. GRANADOS.

Subscribed and sworn to before me this 23rd day of June, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Miguel Gonzales Dena, Witness for Defendant.

UNITED STATES OF AMERICA,
Western District of Texas.

In Re JESUS GUERRA.

In extradition. Witness for defendant.

76 *Testimony of Miguel Gonzales Dena.*

Witness said: My name is Miguel Dena. I live at 316 S. Laredo St. I have lived in Texas three years. Before that I lived at Matamoras, Tamaulitas. I am an editor and printer. I edit a paper called El Latigo. I was printer in Matamoras. I came over to Texas as a visitor, but afterwards decided to remain here. I do not think I could publish my paper in Mexico because, to a certain extent, it is opposed to the management of the government. My paper is classed among what is called the independent papers. According to the law of 1857 it could be published because the press of Mexico is free, but the present administration will not allow its acts to be criticised.

Q. If they are criticized, what is the consequence?

Prosecuting counsel objects to all that has gone before because it is irrelevant and immaterial and has nothing to do whatever with the case of Jesus Guerra.

A. They will be accused according to the common law of Mexico.

Q. What will be the punishment?

Prosecuting counsel objects for the same reason stated above.

A. It depends upon the judge before whom he is tried.

Q. What are the punishments attached?

Prosecuting counsel objects for the same reason stated above.

A. I cannot answer that question because there are various ways of punishment, and, as I said before, it depends upon the mode of trial, and it depends also upon the influence that is brought to bear.

Q. Do you know Catarina Garza?

Prosecuting counsel objects to anything in regard to Catarina Garza because it is not connected with Jesus Guerra and the raid on San Ygnacio.

A. Yes, sir.

Q. How long have you known him?

Same objection.

A. I cannot say the exact time, but have known him from an early age.

Q. Knew him in '91 and '92?

Same objection.

A. Yes, sir.

Q. What was Garza engaged in in '91 and '92 on the frontier?

Same objection.

A. The last time I saw him was here in San Antonio. He came here on a visit, and at that time he published a small paper somewhere on the frontier.

Q. Was Catarina Garza engaged or not in that revolution?

Same objection.

A. Catarina Garza was publishing a paper called the "Free Thinker," and I got all my information through the press.

Prosecuting counsel objects to anything further from the witness in regard to the movements of Catarina Garza. The witness does not seem to have any personal knowledge, but only through the newspapers.

Witness said he knew Catarina Garza's handwriting.

Q. Did you ever see any commission issued by Catarina Garza in that revolution; if so, to whom?

Prosecuting counsel objects because he is not sufficiently qualified himself to speak of the handwriting of Catarina Garza and no handwriting of Catarina Garza is produce- in court.

Q. Of written letters, no; but of printed ones, yes.

Q. Who were known and recognized as commanders under Garza?

Prosecuting counsel objects because the witness has already stated he knows nothing of this kind; only knows anything from public print, and consequently his answer must be hearsay.

Q. What papers, if any, of that revolution did you see?

77 Prosecuting counsel objects for the same reason stated above, and, furthermore, that the publications made in the newspapers are themselves the best evidence of what they were.

A. I have seen various.

Q. Were you ever engaged in a revolution in Mexico or on the borders of Texas and Mexico?

Same objection.

A. On the frontier of Mexico I was, in '76.

Q. What were the aims, objects, and purposes of that revolution you were engaged in?

Prosecuting counsel objects to any testimony in regard to the revolution in '76 because it is more than sixteen years prior to the transaction which we are now trying, and there is no evidence to connect the defendant, Jesus Guerra, with that revolution, and, further, that the incidents of that revolution are public history, judi-

cially known to this court and to the Department of State, and that the facts shown by the witness are irrelevant and immaterial to the case.

A. To overthrow the government of Mr. Sebastian Lerdo Tajado.
Q. Was that revolution successful or unsuccessful?

Prosecuting counsel objects for the same reason stated above.

A. Successful.
Q. Who commanded that revolution?

Prosecuting counsel objects for the same reason stated above.

A. General Diaz.
Q. How was that revolution organized and where organized?

Prosecuting counsel objects for the same reason stated above.

A. It was organized in Brownsville, Texas.
Q. How were the men armed that were organized?

Prosecuting counsel objects for the same reason stated above.

A. Various classes of arms.
Q. How many men did Diaz have with him when he organized that revolution?

Prosecuting counsel objects for the same reason stated before.

A. I cannot say the exact number, but did not have many men.
Q. Did they have a fight over there?

Prosecuting counsel objects for the same reason stated before.

A. They took the city of Matamoras on the second of April.
Q. How many men did Diaz have engaged in that fight?

Prosecuting counsel objects for the same reason stated before.

A. I already told you I did not know.
Q. More or less?

Prosecuting counsel objects for the same reason stated before.

A. More than 200.
Q. How long did the battle last?

Prosecuting counsel objects for the same reason stated before.

A. At six o'clock in the morning the forces of Gen. Diaz presented themselves before the breastwork, and by twelve o'clock that day everything was over.
Q. Any men killed or wounded?

Prosecuting counsel objects for the same reason stated before.

A. I do not know.

Prosecuting counsel moves to strike out all the testimony of the witness Gonzales Dena because he had testified to nothing that is material to this case or nothing that has even the remotest bearing upon the case, and the whole of it is irrelevant and immaterial.

(Signed) M. G. DENA.

Subscribed and sworn to before me this 23rd day of June, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

78 *Testimony of Jacobo Molina, Witness for Defendant.*

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JESUS GUERRA.

In extradition. Witness for defendant.

Testimony of Jacobo Molina.

Witness said: My name is Jacobo Molina; I live at Casa Blanco ranch, Starr county, Texas; I have lived there since '79. I know Jesus Guerra; I have known him since the Garza revolution till now. I do not remember the date of that revolution; I mean the raid by Garza.

Q. Who was next in command to Garza?

Prosecution objects; it is irrelevant and immaterial and has nothing to do with this case.

A. Juan Antonio Flores.

Witness said he knew Francisco Benevidas. He was captain of the company that witness was with, he said. Witness was asked how many generals and colonels under Garza. He said, Only one general, and that was Garza. The colonels were Pablo Munoz, Carmen Ibanez, and Julian Flores. Witness said there were lots of captains. Witness was in the organization; he was what they called second lieutenant; he was appointed by Pablo Morin.

Q. What were they organized for?

Prosecuting counsel objects; it is irrelevant and immaterial.

A. To cross into Mexico to fight against Diaz, president of the Republic of Mexico.

Q. Were they organized to fight against anybody else in Mexico?

Prosecuting counsel objects; it is leading.

A. Against the men that Diaz had on the other side.

Witness was asked what the difference is between a bandit and a revolutionist. He said a bandit is one that steals and kills. Witness was asked if the revolution he was in was for that purpose. He said it was to cross over the river and fight as they went. Witness was asked if he saw any plans or proclamations of that army. He said they had some papers, but he did not know what they were. He heard them read, but did not remember what they said. Witness said the people organized were in favor of Garza, but he did not know about the citizens on the banks of the Rio Grande, because he did not speak to them.

Cross-examination:

Witness was asked if he knew anything about the murder, arson, and burning committed at San Ygnacio and if he was at San Ygnacio; to which question he answer-, No; he was here in San Antonio.

Prosecuting counsel moved to strike out the testimony of this witness because he shows that he knows nothing about the transaction. His testimony is irrelevant and immaterial.

(Signed) his JACOBO x MOLINO. mark.

Subscribed (by mark) and sworn to before me this 21st day of June, 1894.

(Signed) L. F. PRICE, *U. S. Comm'r.*

79 *Testimony of Erenero Garza, Witness for Defendant.*

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JESUS GUERRA.

In extradition. Witness for defendant.

Testimony of Erenero Garza.

Witness said: My name is Erenero Garza. I live at the Avaritas, Zapata county, Texas; I have lived there over four years. I have known Jesus Guerra for some time by sight. I knew him at the Salado, Starr county, Texas. Witness said he knew nothing about the Garza revolution; was not connected in any way with it and never saw the men organized for marching.

Cross-examination:

Witness was asked how long he had known Jesus Guerra. He said the first time he saw him was at the Salado, where he went to take some calves. He said he had only been acquainted with him personally about five months; he knew him at his ranch, at the Avaritas, Zapata county, Texas. Jesus Guerra was driving cattle for Ma-uel Guerra or Blas Hinojosa. Witness was asked if his name was Garza, and he said, Yes. He was asked if he was related to Don Catarina; he said, No.

He was asked if he was a citizen of United States or Mexico. He was Mexican, but had lived in Texas four years. He was then asked why he did not go back to Mexico. Witness answered, because he had interests in Texas. Witness was asked if he thought it would be altogether safe to go back to Guerra. Witness said he thought so.

(Signed) YRENEO GARZA.

Subscribed and sworn to before me this 21st day of June, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Rosalio Garcia, Witness for Defendant.

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JESUS GUERRA.

In extradition. Witness for defendant.

Testimony of Rosalio Garcia.

Witness said: My name is Rosalio Garcia. I live at the Remireinio, Zapata county; lived there about seven years. I know Jesus Guerra; have known him four or five years. I knew him at the Remirenio; it is on the edge of the river, in Zapata county, on this side of the river. I was connected with the Garza revolution in '90 and '91. I know Catarina Garza. I was with them about a month. Catarina Garza was the general in command of that expedition.

Q. Who was next in command?

Prosecuting counsel objects to all about Catarina Garza, as it is not connected with this case.

80 A. Julian Flores.

—. Was Francisco Benevidas connected with them at that time?

—. He was not connected with them at that time.

Q. What were the aims, objects, and purposes of that revolution?

Prosecuting counsel objects, as it is irrelevant and immaterial and only the opinion of the witness.

A. To cross over the river.

We were to fight with the forces of the government of President Diaz; only against the government.

Q. Were you instructed to take anything? If so, what?

Prosecuting counsel objects for the same reason stated before.

A. We had no orders to take anything.

Q. Did you not have orders not to take anything belonging to citizens?

Prosecuting counsel objects for the same reason as stated before, and, furthermore, because it is leading.

Cross-examination:

Witness was asked if he was in the fight at San Ygnacio, if he had anything to do with the raid, and if he knew anything about it; to all of which questions he answered, No.

Prosecuting counsel moves that the witness' testimony be struck out as irrelevant and immaterial.

(Signed) his ROSALIO x GARCIA. mark.

Subscribed (by mark) and sworn to before me this 21st day of June, 1894.

(Signed) L. F. PRICE,
U. S. Comm'r.

Testimony of Juan Duque, Witness for Defendant.

UNITED STATES OF AMERICA, }
Western District of Texas. }

In Re JESUS GUERRA.

In extradition. Witness for defendant.

Testimony of Juan Duque.

Witness said: My name is Juan Duque. I live at Rio Grande City; have lived in Texas since '76. I have known Jesus Guerra since '85 or '86. At the time I knew Jesus Guerra he was living at the ranch of Salado. It is in Texas, Starr county. He was working there then, and then I saw him again between Enramado and Palangara ranches.

Witness said he knew Catarina Garza. He knew him at the time he organized the revolution. It was headed by Garza.

Q. What was his rank?

Prosecuting counsel objects; it has no connection with the transaction at San Ygnacio and is irrelevant and immaterial.

A. We recognized him as general.

Q. Who was second in command?

Prosecuting counsel objects for the same reason stated above.

A. Juan Flores.

Q. Who else?

Prosecuting counsel objects for the same reason stated above.

81 A. Santos Cadenas.

Q. Were there any proclamation issued about the time that revolution was inaugurated?

Prosecuting counsel objects because it is irrelevant, immaterial, and, furthermore, it is leading.

A. Yes, sir.

Witness said the plan of that revolution was also published; it was in Spanish, so he heard, but he cannot read. Witness said the organization was to cross over into Mexico to fight against the government—the government of Diaz.

Prosecuting counsel objects to all testimony about the Garza revolution, as it is irrelevant and immaterial.

Witness said after Garza left they recognized Juan Flores as their chief officer. Witness said in '92 Pancho Benevidas organized himself together with some men and called himself chief officer after Garza.

Q. It was the same revolution that Garza carried on in '91 that Benevidas was carrying on in '92?

Prosecuting counsel objects because it is leading.

Witness said the aims, object, and purposes of Benevidas' men was to cross over the river and fight against the government; it was the same as Garza's.

Witness said they had no orders in regard to the citizens of Mexico when they went over; they just had orders to fight against the Mexican soldiers.

Q. Did you see Garza's men when organized, and did they ever have any banners or anything of the kind?

Prosecuting counsel objects; it is immaterial and irrelevant.

A. When I was with them they did not have any.

(Witness was here shown some pieces of cloth by the defending counsel; they were white strips of cloth with the words "free frontiersman" printed on them.)

Witness was asked if he saw anything like them. He said he had; the soldiers wore them around their hats. Witness was asked if the men were armed or not. He said they were; they were on horseback. He said the men obeyed their officers; if they did not they were made prisoners.

Cross-examination:

Witness was asked if he could not read what was on the cloths that had been introduced. He said, No; he could not read. Witness was asked where he was born. At Mia, State of Taumaulitas. Witness said he was born in '63, and came over in '76. He did not know how old he was when he came over, but his father told him he was born in '63. Witness said he came over with a gentleman who raised him like a son; that gentleman told him he brought him over in '76; that gentleman was Diego Balle, he said. Witness said he staid with that gentleman till he was married, which was in '82. He did not know how many years he had been married, but thought it was ten or twelve years. Witness said he has four children. He was married at Camargo, Tamaulitas State, Mexico. Witness said he went to San Ygnacio after the fight was over; he went with Rafael Ramirez and six or seven others. Witness saw the prisoner there; he was on horseback. Witness said the prisoner came back over to this side with him and the others, and he saw him till they disorganized, which was about six or seven or eight days after they came back.

Witness said he knew Jesus Guerra in '85 or '86; he thought it was about ten or eleven or twelve years ago. Witness was asked if he knew it was more than four years ago. He said he was certain it was more than four years since he knew him. He knew him at the Salado, at Mia, and at Camargo, on the other side. Witness was asked how he knew it was in '85 or '86 that he first knew Guerra; did he have it put down in a book? He said he knew it; that Guerra came with some others to the ranch to get some beeves.

82 Witness was asked what else happened in '85, and he said he did not remember. Witness said he did not know who was governor of Texas. He never voted; he had registered, but did not vote. Witness was asked who registered him and where he registered. He said the boy Nix registered him, and it was at Rio Grande City; he worked in the office there. Witness was asked who is county judge there. He said Mr. Clark is judge, but he did not know whether he was county judge or not. Witness said he did not know who was district attorney; he did not know whether he was a citizen of the United States or of Mexico, because he had lived here and there.

(Signed) his JUAN x DUQUE. mark.

Sworn to and subscribed (by mark) before me this 21st day of June, 1894.

(Signed) L. F. PRICE, *U. S. Comm'r.*

83 *Temporary Commitment—Jesus Guerra.*

UNITED STATES OF AMERICA:

U. S. Commissioners' Court, Western District of Texas, at San Antonio Sitting.

The President of the United States to the marshal of the western district of Texas, Greeting:

You are hereby commanded to take the body of Jesus Guerra, he having been arrested under warrant, charging him, the said Jesus Guerra, with having committed the crimes of murder, arson, robbery, and kidnapping in the State of Tamaulipas, in the Republic of Mexico, on or about the 10th day of December, 1892, and his extradition being now sought by the said Republic of Mexico under the provisions of the treaty now existing between the said United States and the said Republic of Mexico and brought before me for examination, and said examination having been by me continued until the 22 day of May, 1894, for the reason that the witnesses cannot be procured before that time, you, the said marshal, are hereby commanded to commit him to jail for said offense, and the jailer of Bexar county, at San Antonio, Texas, is hereby directed to receive the body of Jesus Guerra into his custody and him safely keep until

discharged by due process of law. Herein fail not, but make due return of this writ showing how you have executed same.

Witness L. F. Price, U. S. commissioner for the western district of Texas, this 19 day of May, A. D. 1894.

(Signed) L. F. PRICE,
U. S. Commissioner, Western District Texas.

Came to hand this 19 day of May, A. D. 1894, and executed this 19 day of May, A. D. 1894, by placing the body of Jesus Guerra in jail at San Antonio, Texas, and delivering a copy of this writ to A. Vidal, jailer of Bexar county, Texas, as within commanded.

(Signed) R. C. WARE,
U. S. Marshal, W. D. T.,
By J. E. WARE, *Deputy.*

Indorsed: No. 313. Commitment (temporary) for Jesus Guerra. In case of Jesus Guerra. In extradition. Issued 19 day of May, 1894. L. F. Price, U. S. commissioner, W. D. T.

84 *Final Commitment—Juan Duque.*

UNITED STATES OF AMERICA, }
Western District of Texas. }

The President of the United States to the jailer of Bexar county, Greeting:

Whereas complaint has been made under the oath of Plutarco Ornelas, consul of the Republic of Mexico, before L. F. Price, a comm. of the circuit court of the U. S. in and for said district and duly authorized by said court to issue warrants for the arrest of fugitives from foreign countries, that one Juan Duque did, on or about the 10th day of December, 1892, at the village of San Ygnacio, in the State of Tamaulipas, Republic of Mexico, and within the jurisdiction and government of said Republic of Mexico, commit the crimes of murder, arson, robbery, and kidnapping—that is to say, that the said Juan Duque did at the time and place aforesaid unlawfully, felon-ously, and of his express malice aforethought assault, shoot, and kill Capt. Rutillio Segura, Manuel Corubia, and eight other persons, whose names are set out in full in the complaint now on file against him, the said Juan Duque, in the office of said commissioner, and, further, that the said Juan Duque did at the time and place aforesaid unlawfully and felon-ously set fire to and burn and consume a certain house or barracks and other buildings, and did then and there kidnap and by force and violence bring from and out of the territory and jurisdiction of the Republic of Mexico into the State of Texas Pedro Salinas and ten other persons, who were then and there residents and citizens of the said Republic of Mexico; that the said Juan Duque is a fugitive from justice of the Republic of Mexico, and did, on or about the 10th day of December, A. D. 1892, flee into the jurisdiction of the U. S. for the purpose of seek-

ing an asylum, and that the crimes with which the said Juan Duque is charged are embraced in the treaty of extradition between
85 the U. S. and the said Republic of Mexico of date December 11th, A. D. 1861, and the said Juan Duque having been brought before me in presence of a warrant of arrest issued upon said complaint, and having been examined concerning the charges alleged against him, the commissioner finds that the evidence is sufficient in law to justify the commitment of the said Juan Duque on said charges:

These are therefore to command you to receive the said Juan Duque into your custody to await the order of the President of the U. S. in the premises.

In witness whereof I hereunto set my hand, at office, in San Antonio, Texas, this 17th day of July, A. D. 1894.

(Signed) L. F. PRICE,
Comm'r of the U. S. Circuit Court in and for the Western District of Texas.

Came to hand on this the 17th day of July, A. D. 1894, and executed on the 17th day of July, A. D. 1894, by committing to jail in the county jail of Bexar county, Texas, Juan Duque, the within-named defendant, and delivering to the jailer of said jail in person a true copy of this commitment.

(Signed) R. C. WARE,
U. S. Marshal, W. D. T.,
By J. E. WARE, *Deputy.*

Indorsed: 319. *In re* Juan Duque. In extradition. Final commitment.

86 *Decree—Inez Ruiz, Jesus Guerra, and Juan Duque.*

In Re Ex Parte INEZ RUIZ, JESUS GUERRA, and JUAN DUQUE.

In U. S. Dist. Court for the Western Dist. of Texas, at San Antonio, Texas.

Before Judge T. S. Maxey, dist. judge.

Now, coming on to be heard the petition in these causes for writ of *habeas corpus* and certiorari, and after hearing the evidence as shown in the record in these causes before the court and after hearing the arguments of the counsel and considering the law and the facts, it appears to the court that the law and the facts are with the petitioners.

Therefore it is ordered, adjudged, and decreed by the court that the petitioners, Inez Ruiz, Jesus Guerra, and Juan Duque, be discharged from custody of the marshal of the western dist. of Texas.

But under the third clause of the 34th rule of the supreme court it is further ordered that each of the said petitioners enter into a bond of one thousand dollars each, with good and sufficient sureties, to be approved by the clerk of this court, for their appearance be-

fore this court from day to day and from term to term to answer the judgment of the appellate court, and that upon the filing and approval of said bond so conditioned that they be discharged from custody.

Whereupon the Mexican government, by its attorneys, in open court excepted to the judgment of the court and gave notice of appeal.

87 *Conclusion of Opinion.*

Counsel for the Mexican government upon the argument informs the court, as we are also informed by the public prints, that Mr. Gresham, the present Secretary of State, has recently delivered to the Mexican government one of the parties implicated in the Garza movement. With due respect to Mr. Gresham, whom the court regards as an eminent statesman and ripe jurist, I am constrained to differ from him in his construction of the sixth article of the treaty as applied to the facts of these cases. In my judgment the movement inaugurated by Garza and his followers in 1891 within this judicial district was a political movement, having for its purpose the overthrow of the existing government in Mexico, and that the offenses committed by the petitioners and their associates in their vain and visionary attempt to accomplish their purpose were purely political offenses within the meaning of the sixth article of the treaty of extradition. Had the movement succeeded in compassing the overthrow of the present government of Mexico a doubt would scarcely be entertained that it was political in its character and that the offenses committed in the furtherance of the enterprise were purely political offenses. Disaster and defeat do not change the legal complexion of the act, and the offenses committed in the prosecution of the enterprise are not the less on that account purely political offenses. If a different policy ought to be inaugurated and the extradition treaty so amended as to make political offenses extraditable, it rests with the two governments to effect such changes and modifications as may be mutually desirable. With the policy, however, of the Government the courts have but little to do. They must construe the laws of the land, and treaties are regarded as a part of the supreme law, as they find them. In the interpretation of treaties, using the language of the Supreme Court, "we are to find out the intention of the parties by just rules of interpretation applied to the subject-matter, and, having found that out, our duty is to follow it as far as it goes and to stop where that stops, whatever may be the imperfections or difficulties which it leaves behind." The Amiable Isabella, 6 Wheat., 71. Giving such interpretation to the sixth article of the treaty in question, my conclusion is that, upon the facts of these cases, the offenses charged against the petitioners are purely political offenses, for the commission of which the petitioners are not extraditable. It follows, therefore, that they should be discharged from custody; but under the third clause of the 34th rule of the Supreme Court an order will be entered requiring each one of the petitioners before being released

from custody, pending an appeal from the decision of this court, to enter into bond with good and sufficient surety in the sum of one thousand dollars, to be approved by the clerk of this court, for his appearance before this court from day to day and from term to term to answer the judgment of the appellate court.

Indorsed: Nos. 1301 & 1302. Jesus Guerra, Inez Ruiz, and Juan Duque. *Ex parte.* Conclusion of opinion. Filed Dec. 27, 1894. D. H. Hart, clerk.

88 *Ex Parte* INEZ RUIZ, JESUS GUERRA, and JUAN DUQUE. No. 1301, No. 1302.

In the District Court of the United States in and for the Western District of Texas.

It is agreed by and between the applicants, Inez Ruiz, Jesus Guerra, and Juan Duque, and the United States marshal of this district and the government of the Republic of Mexico that the two above numbered and styled causes shall be heard together, and upon the record of the facts as made by the United States commissioner, L. F. Price, in the case of Jesus Guerra, the proceedings and facts being the same as to the three applicants.

(Signed) W. H. BROOKER,
Attorney for Applicants, Inez Ruiz, Jesus Guerra, and Juan Duque.

(Signed) McLEARY & STAYTON,
Attorneys for Republic of Mexico.

(Signed) DUVAL WEST,
Attorney for U. S. Marshal, R. C. Ware.

Indorsed: No. 1301, No. 1302. *Ex parte* Inez Ruiz, Jesus Guerra, Juan Duque. Agreement to appeal on record of facts in case of Jesus Guerra. Filed this 18th day of April, 1895. D. H. Hart, clerk, by A. Grosenbacher, deputy.

89 *Appeal Bond for Costs.*

In the District Court of the U. S. for the Western District of Texas, Sitting at San Antonio.

Ex Parte INEZ RUIZ, JESUS GUERRA, and JUAN DUQUE. No. 1301 & No. 1302.

Know all men by these presents that we, Plutarco Ornelas, consul of the Republic of Mexico, as principal, and J. H. McLeary and C. A. R. Campbell, as sureties, are held and firmly bound unto Inez Ruiz, Jesus Guerra, and Juan Duque in the full and just sum of three hundred ($300.00) dollars, to be paid to the said defendants, their heirs, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents, this the

16th day of January, in the year of our Lord one thousand eight hundred and ninety-five.

Whereas lately, at a district court of the United States for the western district of Texas, in an application pending in said court on *habeas corpus* in extradition proceedings, wherein the said Plutarco Ornelas, as consul of the Republic of Mexico, sought to obtain the extradition of the said Ruiz, Guerra, and Duque, and that they be returned to the Republic of Mexico to answer charges there preferred against them for murder, arson, robbery, and kidnapping, a judgment was rendered by said district court liberating the said prisoners and discharging them from custody, from which said judgment the said Plutarco Ornelas, consul of the Republic of Mexico, under the direction of his government, appealed to the Supreme Court of the United States:

Now, the condition of the above obligation is such that if the said Plutarco Ornelas, consul of the Republic of Mexico, shall prosecute his said appeal to effect and shall pay all costs of this proceeding in case he fail to make good the said appeal and to reverse the decision of the district court of the United States for the western district of Texas, then the above obligation is to be void; otherwise to remain in full force and virtue.

Signed by us, at San Antonio, Texas, the day and date above written.

(Signed) P. ORNELAS,
Consul of Mexico.
(Signed) J. H. McLEARY.
(Signed) CHAS. A. R. CAMPBELL.

In presence of witnesses:
(Signed) ENRIQUE ORNELAS.
(Signed) T. A. CHAPA.

Approved.

The foregoing bond is approved, but I am not advised of any authority for its execution. May 2nd, 1895.

(Signed) T. S. MAXEY, *Judge.*

Indorsed: No. 1301 & No. 1302. *Ex parte* Inez Ruiz, Jesus Guerra, and Juan Duque. Appeal — for costs. Filed this 2nd day of May, 1895. D. H. Hart, clerk, by A. Grosenbacher, deputy.

90 *Assignment of Error.*

In the District Court of the United States for the Western District of Texas.

Ex Parte INEZ RUIZ, JESUS GUERRA, and JUAN DUQUE. No. 1301, No. 1302.

Now comes the Republic of Mexico, through its counsel, and makes known to the honorable Supreme Court of the United States of America that the Republic of Mexico is the party in interest

prosecuting in this cause, and as such makes the following assignments of error, which it avers occurred upon the trial hereof:

1st. The court erred in its construction of the 6th article of the treaty between the United States of America and the Republic of Mexico as applied to the facts in these cases, which construction is given in the following language:

"In my judgment the movement inaugurated by Garza and his followers in 1891 within this judicial district was a political movement, having for its purpose the overthrow of the existing government of Mexico, and that the offenses committed by the petitioners and their associates, in their vain and visionary attempt to accomplish their purpose, were purely political offenses within the meaning of the sixth article of the treaty of extradition. Had the movement succeeded in compassing the overthrow of the present government of Mexico, a doubt would scarcely be entertained that it was political in its character and that the offenses committed in the furtherance of the enterprise were purely political offenses. Disaster and defeat do not change the legal complexion of the act,
and the offenses committed in the prosecution of the enterprise
91 are not the less, on that account, purely political offenses. If a different policy ought to be inaugurated and the extradition treaty so amended as to make political offenses extraditable, it rests with the Government to effect such changes and modifications as may be mutually desirable. With the policy, however, of the Government the courts have little to do. They must construe the laws of the land—and treaties are regarded as a part of the supreme law—as they find them.

In the interpretation of treaties, using the language of the Supreme Court, 'We are to find out the intention of the parties by just rules of interpretation applied to the subject-matter, and, having found that out, our duty is to follow it as far as it goes and to stop where that stops, whatever may be the imperfections or difficulties which it leaves behind.' (The Amiable Isabella, 6 Wheat., 71.)

Giving such interpretation to the sixth article of the treaty in question, my conclusion is that upon the facts of these cases the offenses charged against the petitioners are purely political offenses, for the commission of which the petitioners are not extraditable."

2nd. The court erred in its judgment entered to the effect that the applicants should be discharged.

(Signed) McLEARY & STAYTON,
Attorneys for Mexican Government.

Indorsed: No. 1301, No. 1302. *Ex parte* Inez Ruiz, Jesus Guerra, & Juan Duque. Assignment of error. Filed this 16th day of April, 1895. D. H. Hart, clerk, by A. Grosenbacher, deputy.

92 UNITED STATES OF AMERICA, }
Western District of Texas. }

I, D. H. Hart, clerk of the United States district court in and for the western district of Texas, at San Antonio, hereby certify that the

foregoing on ninety-two pages contains a true and correct copy of the proceedings had (as therein stated) in the cases of Inez Ruiz & Jesus Guerra, No. 1301, and Juan Duque, No. 1302, application for writ of *habeas corpus*, as fully as the same remains on file and of record in my office, at San Antonio, Texas.

Witness my hand and the seal of the district court, at office, in the city of San Antonio, this the 2nd day of May, A. D. 1895.

[The Seal of the U. S. District Court, Western Dist. Texas, San Antonio.]

D. H. HART, *Clerk*,
By A. GROSENBACHER, *Deputy*.

Endorsed on cover: Case No. 15,910. W. Texas D. C. U. S. Term No., 622. Plutarco Ornelas, consul of the Republic of Mexico, appellant, *vs.* Inez Ruiz, Jesus Guerra, & Juan Duque. Filed May 22, 1895.

FILED.
JAN 14 1896
JAMES H. McKENNEY,
CLERK.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1895.

No. 622.

PLUTARCO ORNELAS, CONSUL OF THE REPUBLIC OF MEXICO, APPELLANT,

vs.

INEZ RUIZ, JESUS GUERRA, AND JUAN DUQUE.

EXTRADITION TREATY.

(Printed by Direction of the Court.)

TREATY FOR THE EXTRADITION OF CRIMINALS, FUGITIVE FROM JUSTICE.

Concluded December 11, 1861; *ratifications exchanged at Mexico May* 20, 1862; *proclaimed June* 20, 1862. (12 *Stat.*, 1199.)

The United States of America and the United Mexican States having judged it expedient, with a view to the better administration of justice and to the prevention of crime within their respective territories and jurisdictions, that persons charged with the crimes hereinafter enumerated, and

being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude a treaty for this purpose, and have named as their respective Plenipotentiaries—that is to say:

The President of the United States of America has appointed Thomas Corwin, a citizen of the United States, and their Envoy Extraordinary and Minister Plenipotentiary near the Mexican Government; and the President of the United Mexican States has appointed Sebastian Lerdo de Tejada, a citizen of the said States, and a deputy of the Congress of the Union;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

It is agreed that the contracting parties shall, on requisitions made in their name, through the medium of their respective diplomatic agents, deliver up to justice persons who, being accused of the crimes enumerated in article third of the present treaty, committed within the jurisdiction of the requiring party, shall seek an asylum, or shall be found within the territories of the other: *Provided*, That this shall be done only when the fact of the commission of the crime shall be so established as that the laws of the country in which the fugitive or the person so accused shall be found, would justify his or her apprehension and commitment for trial if the crime had been there committed.

ARTICLE II.

In the case of crimes committed in the frontier States or Territories of the two contracting parties, requisitions may be made through their respective diplomatic agents, or through the chief civil authority of said States or Territories, or through such chief civil or judicial authority of the dis-

tricts or counties bordering on the frontier as may for this purpose be duly authorized by the said chief civil authority of the said frontier States or Territories, or when, from any cause, the civil authority of such State or Territory shall be suspended, through the chief military officer in command of such State or Territory.

ARTICLE III.

Persons shall be so delivered up who shall be charged, according to the provisions of this treaty, with any of the following crimes, whether as principals, accessories, or accomplices, to wit: Murder (including assassination, parricide, infanticide, and poisoning), assault with intent to commit murder, mutilation, piracy, arson, rape, kidnapping, defining the same to be the taking and carrying away of a free person by force or deception; forgery, including the forging or making, or knowingly passing or putting in circulation counterfeit coin or bank notes, or other paper current as money, with intent to defraud any person or persons; the introduction or making of instruments for the fabrication of counterfeit coin or bank notes, or other paper current as money; embezzlement of public moneys; robbery, defining the same to be the felonious and forcible taking from the person of another of goods or money to any value, by violence or putting him in fear; burglary, defining the same to be breaking and entering into the house of another with intent to commit felony; and the crime of larceny, of cattle, or other goods and chattels, of the value of twenty-five dollars or more, when the same is committed within the frontier States or Territories of the contracting parties.

ARTICLE IV.

On the part of each country the surrender of fugitives from justice shall be made only by the authority of the executive thereof, except in the case of crimes committed

within the limits of the frontier States or Territories, in which latter case the surrender may be made by the chief civil authority thereof, or such chief civil or judicial authority of the districts or counties bordering on the frontier as may for this purpose be duly authorized by the said chief civil authority of the said frontier States or Territories, or, if, from any cause, the civil authority of such State or Territory shall be suspended, then such surrender may be made by the chief military officer in command of such State or Territory.

ARTICLE V.

All expenses whatever of detention and delivery effected in virtue of the preceding provisions shall be borne and defrayed by the government or authority of the frontier State or Territory in whose name the requisition shall have been made.

ARTICLE VI.

The provisions of the present treaty shall not be applied in any manner to any crime or offense of a purely political character, nor shall it embrace the return of fugitive slaves, nor the delivery of criminals who, when the offense was committed, shall have been held in the place where the offense was committed in the condition of slaves, the same being expressly forbidden by the constitution of Mexico; nor shall the provisions of the present treaty be applied in any manner to the crimes enumerated in the third article committed anterior to the date of the exchange of the ratifications hereof.

Neither of the contracting parties shall be bound to deliver up its own citizens under the stipulations of this treaty.

ARTICLE VII.

This treaty shall continue in force until it shall be abrogated by the contracting parties, or one of them; but it shall not be abrogated except by mutual consent, unless the party desiring to abrogate it shall give twelve months' previous notice.

ARTICLE VIII.

The present treaty shall be ratified in conformity with the Constitution of the two countries, and the ratifications shall be exchanged at the city of Mexico within six months from the date hereof, or earlier if possible.

In witness whereof we, the Plenipotentiaries of the United States of America and of the United Mexican States, have signed and sealed these presents.

Done in the city of Mexico on the eleventh day of December, in the year of our Lord one thousand eight hundred and sixty-one, the eighty-sixth of the Independence of the United States of America, and the forty-first of that of the United Mexican States.

THOS. CORWIN. [L. S.]
SEB'N LERDO DE TEJADA. [L. S.]

Office Supreme Court U.S.
FILED.
MAY 27 1895
JAMES H. McKENNEY,
CLERK.

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1894.

No. ~~1020~~. 622

PLUTARCO ORNELAS, CONSUL OF THE REPUBLIC OF MEXICO, APPELLANT,

vs.

INEZ RUIZ ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS.

MOTION TO ADVANCE.

Now comes the appellant, Plutarco Ornelas, by his attorneys, and moves this honorable Court to advance the above-entitled cause and assign the same for argument at an early day; and, as ground for such motion, respectfully shows—

That the appellee Ruiz, with others, was, on or about the 18th day of May, A. D. 1894, arrested at San Antonio, Texas, upon the complaint of the consul for the Republic of Mexico, charging them with having committed, on

or about December 10, A. D. 1892, the crimes of murder, arson, robbery, and kidnapping in or near the city of San Ygnacio, in the State of Taumilipas, Republic of Mexico, and with being fugitives from the justice of said Republic. Upon evidence duly submitted before one Price, a United States circuit court commissioner, fully clothed with jurisdiction in the premises, the accused were committed to the Bexar county jail, in the custody of the United States marshal for the western district of Texas, for purposes of extradition.

That subsequent to such commitment and prior to the issuance of warrants of surrender said appellee, Ruiz, and his associates applied to the Honorable Thomas S. Maxey, United States district judge, for writs of *habeas corpus* and *certiorari*, alleging illegal restraint, etc., and upon consideration of the returns to the rule to show cause and also of the record it was adjudged that the offenses with which the prisoners were charged were political in character and were not, therefore, extraditable under a proper construction of the treaty of December 11, A. D. 1861, between the Republics of Mexico and the United States, and it was decreed that the prisoners should be enlarged upon bail in the sum of $1,000 pending an appeal to this Court.

The matter at issue is of grave importance to both the United States and Mexico, and particularly so to the latter, for it involves not only the determination of the question whether the commitments of the United States commissioner have not been improperly disturbed, but also, as incidental thereto, a construction of the extradition treaty between the two countries.

The case at bar is of the character of a test case, many other arrests and commitments under like circumstances having been made; and if such arrests and commitments were legal, it is of the utmost importance that they should be maintained.

The bail bond required by the honorable district judge

is small and affords but a scant guarantee for the future appearance of the accused persons.

Wherefore appellant, acting under instructions from his Government, submits this motion for an early disposition of the case.

S. F. PHILLIPS,
FREDERIC D. MCKENNEY,
For Appellant.

J. H. MCLEARY,
Of Counsel.

Office Supreme Court U. S.
FILED.
JAN 7 1896
JAMES H. McKENNEY,
CLERK.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1895.

Case No. 15,910. Term No., 622.

P. ORNELAS, CONSUL OF THE REPUBLIC OF MEXICO,
APPELLANT,

vs.

INEZ RUIZ, JESUS GUERRA, AND JUAN DUQUE,
APPELLEES.

STATEMENT IN OPPOSITION TO THE MOTION OF APPELLEES FOR CERTIORARI.

Now comes P. Ornelas, consul of the Republic of Mexico, the appellant, and, replying to the motion herein made by the appellees, suggesting diminution of the record and praying for certiorari, says that the record is complete, as appears from the certificate of the clerk of the district court of the western district of Texas; and, further, that it appears from the papers attached to the said motion that the same are no part of the record, as the copy of the indictment referred to was filed by the United

States commissioner, L. F. Price, during the year 1893, months before the prosecutions in these cases were begun, the affidavits therein having been made on the 17th of May, 1894; and, further, that the papers styled in said motion as the "Plan of revolution," the "Proclamation," and the "Manifesto" were filed by United States Commissioner L. F. Price on the 22d day of June, 1895, a month after the record in this cause was filed in this court, the same having been filed herein on the 22d day of May, 1895, all of which is apparent from the record itself.

Wherefore appellant prays that the motion of appellees be dismissed or overruled.

J. H. McLEARY,
For Appellant.

JOHN W. FOSTER,
S. F. PHILLIPS,
F. D. McKENNEY,
Of Counsel.

JAN 4 1896
JAMES H. McKENNEY,
CLERK

Supreme Court of the United States.

OCTOBER TERM, 1895.

No. 622.

PLUTARCO ORNELAS, CONSUL OF THE REPUBLIC OF MEXICO, APPELLANT,

vs.

INEZ RUIZ, JESUS GUERRA, AND JUAN DUQUE, APPELLEES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TEXAS.

BRIEF AND ARGUMENT FOR APPELLANT.

J. H. MCLEARY,
For Appellant.

JOHN W. FOSTER,
S. F. PHILLIPS,
F. D. MCKENNEY,
Of Counsel.

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C.

JAN 4 1896
JAMES H. McKENNEY,
CLERK.

Supreme Court of the United States.

OCTOBER TERM, 1895.

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PLUTARCO ORNELAS, CONSUL OF THE REPUBLIC OF MEXICO, APPELLANT,

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APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TEXAS.

BRIEF AND ARGUMENT FOR APPELLANT.

J. H. McLEARY,
For Appellant.

JOHN W. FOSTER,
S. F. PHILLIPS,
F. D. McKENNEY,
Of Counsel.

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C.

IN THE

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OCTOBER TERM, 1895.

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PLUTARCO ORNELAS, CONSUL OF THE REPUBLIC OF MEXICO, APPELLANT,

vs.

INEZ RUIZ, JESUS GUERRA, AND JUAN DUQUE, APPELLEES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TEXAS.

BRIEF AND ARGUMENT FOR APPELLANT.

May it please the Court, this is a case of *habeas corpus*. It is an appeal from the district court of the United States for the western district of Texas. Ruiz, Duque, and Guerra made application to the court for a writ of *habeas corpus*, alleging that they were unlawfully restrained of their liberty by R. C. Ware, the United States marshal for the western district of Texas, and praying that they be released. The marshal made his return, showing that he held the

prisoners by virtue of a warrant issued by L. F. Price, a United States commissioner having the proper authority, commanding him to hold the prisoners to await the order of the President of the United States on the application of the Mexican government for the extradition of the prisoners, they being charged with murder, arson, robbery, and kidnaping alleged to have been committed in the State of Tamaulipas and in the Republic of Mexico on the 10th day of December, A. D. 1892. At the same time that the writ of *habeas corpus* was issued a writ of certiorari was also issued, commanding the United States commissioner to send up the original papers and a transcript of the testimony on which the prisoners were committed.

On consideration of the case and a review of the testimony Judge Maxey, sitting in the district court, considered that the offense with which the prisoners were charged appeared from the testimony to be a "purely political offense," and ordered the prisoners to be released.

From this judgment of the district court Dr. P. Ornelas, the Mexican consul, upon whose complaint the prisoners had been arrested, took an appeal to this Court and assigns two errors, as follows:

1st. "The court erred in its construction of the sixth article of the treaty between the United States of America and the Republic of Mexico as applied to the facts in these cases, which construction is given in the following language:

"'In my judgment the movement inaugurated by Garza and his followers in 1891 within this judicial district was a political movement, having for its purpose the overthrow of the existing government of Mexico, and that the offenses committed by the petitioners and their associates in their vain and visionary attempt to accomplish their purpose were purely political offenses within the meaning of the sixth article of the treaty of extradition. Had the movement succeeded in compassing the overthrow of the present government of Mexico a doubt would be scarcely enter-

tained that it was political in its character and that the offenses committed in the furtherance of the enterprise were purely political offenses. Disaster and defeat do not change the legal complexion of the act, and the offenses committed in the prosecution of the enterprise are not the less on that account purely political offenses. If a different policy ought to be inaugurated and the extradition treaty so amended as to make political offenses extraditable, it rests with the Government to effect such changes and modifications as may be mutually desirable. With the policy, however, of the Government the courts have little to do. They must construe the laws of the land—and treaties are regarded as a part of the supreme law—as they find them.

"'In the interpretation of treaties, using the language of the Supreme Court, "We are to find out the intention of the parties by just rules of interpretation applied to the subject-matter, and, having found that out, our duty is to follow it as far as it goes and to stop where that stops, whatever may be the imperfections or difficulties which it leaves behind." (The Amiable Isabella, 6 Wheat., 71.)

"'Giving such interpretation to the sixth article of the treaty in question, my conclusion is that upon the facts of these cases the offenses charged against the petitioners are purely political offenses, for the commission of which the petitioners are not extraditable.'"

2d. "The court erred in its judgment entered to the effect that the applicants should be discharged."

This appeal is taken under the provisions of paragraph 5 of section 5 of the appellate court's act of the 3d of March, 1891, which, in providing for appeals from the district courts or from the existing circuit courts direct to the Supreme Court, mentions as one of the cases in which an appeal may be taken, the following, to wit:

"5th. In any case in which the constitutionality of any law of the United States or the validity or construction of any treaty made under its authority is drawn in question."

U. S. Statutes at Large, vol. 28, p. 826.

We apprehend that there will be no question about the propriety of the appeal being taken direct from the district court to the Supreme Court of the United States.

It may be suggested that this appeal should have been taken by R. C. Ware, the United States marshal having the custody of the prisoners, and *not* by P. Ornelas, the Mexican consul, who made the affidavit on which they were primarily arrested, and we have been referred to the case of The United States *vs.* Rodda, 23 Washington Law Reporter, p. 229, as sustaining this objection. That was a case in which Rodda had been sentenced to imprisonment by the police court of the District, and applied for and obtained a writ of *habeas corpus* from Mr. Justice Cox, of the supreme court of the District of Columbia, on which he was discharged. The district attorney, on behalf of the United States, took an appeal to the court of appeals of the District of Columbia; but it was objected that the United States was not a proper party appellant, but that the appeal should have been taken by the warden of the jail. The court of appeals of the District of Columbia held that it would have been proper for the warden of the jail to have been made the party appellant, but that the clerical error in the form of the citation would be no cause for dismissing the appeal, and that the United States were the real parties in interest, and, being such, no bond was necessary for the appeal, and that the court should disregard technical objections and consider the case on its merits. Having thus disposed of the technicalities, the court proceeded to consider the case on its merits, and reversed the judgment of the court below discharging the prisoner from custody and recommitted him to the custody of the warden to serve out his sentence.

In Wildenhus' case, 120 U. S., pp. 1–19, the Belgian consul sued out a writ of *habeas corpus* to obtain the custody of Wildenhus *et al.* charged with murder in the port of New Jersey on board a Belgian vessel, and, the prisoners being remanded, the consul appealed from that judgment to the

Supreme Court of the United States. It is true he joined with himself the prisoners as appellants, but the Supreme Court says that there is no reason why he, the consul, may not enforce his rights by *habeas corpus* (p. 17). The case is treated as his appeal, the other parties being disregarded. The case was affirmed and Wildenhus was remanded to the custody of the local authorities for trial.

The case of Benson *vs.* McMahon was argued in this Court by counsel for the prisoner and also by counsel for the Mexican government (127 U. S., p. 459). This Court in that case recognized the Mexican government as an interested party and considered and decided the case from that standpoint (p. 460).

The attention of this Court is respectfully called to the fact that this proceeding was instituted before the United States commissioner by the Mexican government, on the affidavit of its consul residing at San Antonio, seeking the extradition of Ruiz, Duque, and Guerra for crimes alleged to have been committed on Mexican soil, and that the prisoners were committed to custody to await the decision of the President of the United States in the premises, and that pending such decision the writ of *habeas corpus* was sued out. On the order being made by the United States district court for the liberation of the prisoners all interest which the United States or its marshal for the western district of Texas had in the proceeding ended, and the marshal might well decline, as he did in the premises, to appeal from the decision of the court of which he was the executive officer and leave the prisoners at liberty, where the order of the court had placed them; but the Mexican government, being the real party in interest and being dissatisfied with the decision of the United States district court, sought to remove it to this Court by this appeal, in order that it might be reviewed and reversed. It would seem strange indeed if a trivial, technical objection, such as the one alluded to, should deprive a foreign government, with

whom the United States is on the most amicable terms, of having the decision of the highest court in this country in regard to the legality of a judgment pronounced adversely to that nation in an inferior court. We do not believe that any sufficient authority for such a course can be found, and we hope that this Court will take cognizance of the case and review the decision of the court below and here render such a judgment as should have been rendered therein.

Judge Maxey in the outset seems to fall into an error by presuming that the offenses with which these prisoners were charged were connected with the so-called Garza revolution, when it is a matter of historial fact, and also abundantly shown by the record, that Garza's forces, never amounting to more than two hundred men, were dispersed in December, 1891, and that Garza himself was a fugitive not only from Mexico, but from Texas, for many months before the tragedy at San Ygnacio took place. There is no evidence worthy of consideration to establish a connection between the two enterprises. It is, however, respectfully submitted that persons may violate the neutrality laws of the United States without engaging on Mexican soil in any political crime against the Republic of Mexico. To begin or set on foot a military enterprise within the territory of the United States, to be prosecuted from thence against the people or the dominion of a neighboring government with which the United States is at peace, would be a violation of the neutrality laws, although the object of these criminals might only be to murder and to plunder and without any hope whatever of creating a political revolution. It is respectfully submitted that this distinction was lost sight of by the court below in the rendition of this judgment; but further allusion will be made to this point when we come to consider the facts upon which these prosecutions were founded.

We announce it as a proposition warranted by the decisions of this Court and other courts of the United States that the district court for the western district of Texas in

considering an application for *habeas corpus* had no jurisdiction or authority to review the facts on which the commissioner acted further than to determine whether or not he had jurisdiction of the subject-matter and of the persons of the accused, and that the crimes with which they were charged were included in the treaty of extradition between the United States of America and the Republic of Mexico. In support of this proposition, the Court is respectfully referred to the case of Oteiza y Cortes *vs.* Jacobus, reported in 136 U. S., page 330, where this Court says:

"We are of the opinion that the order of the circuit court refusing to discharge Oteiza must be affirmed. A writ of *habeas corpus* in a case of extradition cannot perform the office of a writ of error. If the commissioner has jurisdiction of the subject-matter and of the person of the accused, and the offense charged is within the terms of a treaty of extradition, and the commissioner, in arriving at a decision to hold the accused, has before him competent legal evidence on which to exercise his judgment as to whether the facts are sufficient to establish the criminality of the accused for the purposes of extradition, such decision of the commissioner cannot be reviewed by a circuit court or by this Court on *habeas corpus*, either originally or by appeal."

In this case Mr. Justice Blatchford, delivering the opinion of the Court, also refers to the case of Benson *vs.* McMahon, (127 U. S., 457), in which Mr. Justice Miller, speaking for this Court, said:

"The writ of *habeas corpus* directed to the marshal of the southern district of New York does not operate as a writ of error. The main question to be considered upon such a writ of *habeas corpus* must be, Had the commissioner jurisdiction to hear and decide upon the complaint made by the Mexican consul? And also, Was there sufficient legal ground for his action in committing the prisoner to await the requisition of the Mexican authorities? We are of opinion that the proceeding before the commissioner is not to be regarded as in the nature of a final trial, by which the prisoner could be convicted or acquitted of

the crime charged against him, but rather of the character of those preliminary examinations which take place every day in this country before an examining magistrate for the purpose of determining whether a case is made out which will justify the holding of the accused, either by imprisonment or under bail, to ultimately answer to an indictment or other proceeding in which he shall be finally tried upon the charge made against him."

And, proceeding further, Mr. Justice Miller says:

"We are not sitting in this Court on the trial of the prisoner with power to pronounce him guilty and punish or declare him innocent and acquit him. We are now engaged simply in an inquiry as to whether, under the construction of the act of Congress and the treaty entered into between this country and Mexico, there was legal evidence before the commissioner to justify him in exercising his power to commit the prisoner to custody to await the requisition of the Mexican government."

To the same effect we find the decisions of this Court in *Ex parte* Siebold, 100 U. S., 371, and Stevens *vs.* Fuller, 136 U. S., 468, and Horner *vs.* U. S., 143 U. S., 570, and in *Ex parte* Virginia, 100 U. S., 339.

Mr. Church in his new book on *Habeas Corpus*, in section 459, on pages 798, 799, and 800, sums up the decisions of the courts on this subject as follows:

"But the rule expressive of the general doctrine which now obtains in such cases is that the jurisdiction of the commissioner and the sufficiency of the legal ground for his action are the main questions to be considered, and that if the commissioner had jurisdiction of the subject-matter and of the person of the accused, and the offense charged was within the terms of the treaty of extradition in question, and the commissioner, in arriving at a decision to hold the accused, had before him competent legal evidence on which to exercise his judgment as to whether the facts were sufficient to establish the criminality of the accused for the purposes of extradition, his decision cannot be reviewed on *habeas corpus* proceedings, either originally or by appeal. The courts

will decline to consider questions respecting the introduction of evidence or the sufficiency of the authentication of documentary proof. They will inquire whether the commissioner has acquired jurisdiction of the matter by conforming to the treaty and statutes, whether he has exceeded his jurisdiction, and whether he has any legal or competent evidence of facts before him on which to exercise a judgment as to the criminality of the accused; but they will not inquire whether the legal evidence of facts before the commissioner was sufficient or insufficient to warrant his conclusion. Neither will the court, if there was legal and competent evidence of facts before the commissioner for him to consider in making up his decision as to the criminality of the accused, hold the proceedings illegal and discharge the prisoner on *habeas corpus* because some other evidence was introduced which was not legal or competent, but was held to be so by the commissioner and was considered by him on the question of fact. Neither will they discharge him on this writ, because they, on weighing all the evidence which the commissioner considered, would have come to a different conclusion, or because they, on exclusion of such of the evidence as they may think was not legal or competent, would come, on the remainder of the evidence, to a different conclusion of fact from that at which the commissioner arrived. The case will not be retried."

If the court below, in making up its judgment, reviewed the cases herein cited, the district judge must have taken the view that the question as to whether or not the offenses charged were purely political in their character was not a proper one for the determination of the commissioner, and that in considering that question the commissioner was acting beyond his jurisdiction. In this we respectfully submit that the court below was in error. The United States commissioner, Price, had as much authority, sitting as an examining magistrate in these cases, as Judge Maxey himself would have had acting in the same capacity, and no doubt the district judge would have considered that he had the right to determine the question of whether or not the facts

of this case showed a political offense, had he been investigating the same as a committing magistrate, since he undertook to make such a decision on the application for writ of *habeas corpus*. We respectfully refer the Court in this connection to the case of Ezeta (62 Federal Reporter, 962), in which Judge Morrow says:

"The committing magistrate has jurisdiction, and it is *his* duty to determine whether the offense charged is political and not subject to extradition."

And in pursuance of that principle Judge Morrow, sitting as a committing magistrate, proceeded to determine that Ezeta and three other of the prisoners accused were only guilty of political offenses, and that one of them, Cienfuegos, was guilty of a felony which was not political; accordingly, four of them were discharged and one of them was held to await the order of the President.

If Judge Morrow in this case, sitting as a committing magistrate, had authority to make this decision, Commissioner Price had the same authority, and Judge Maxey, sitting in the district court, on an application for *habeas corpus*, had no right to review the action of the commissioner remanding the prisoners to await the action of the President of the United States.

In fact it may well be doubted whether this question in regard to an offense charged against a person sought to be extradited being political or not comes within the jurisdiction of any judicial officer sitting either as a committing magistrate or on *habeas corpus*. It may well be claimed that this question should alone be decided by the executive department of the Government, which has charge of all political questions and of the relations of the United States with foreign powers.

In re Metzger, 17 Federal Cases, pp. 237 and 238.

If it was the intention of Congress to commit this matter to the decision of the executive department alone, there is abundant authority to show that such action would be constitutional. Under the immigration laws inspectors are charged with the investigation and the decision of questions similar to this in regard to the admission or exclusion of immigrants, and their actions in this respect have been frequently brought before this Court for adjudication. We will quote from one or two cases only in this connection:

"It has been repeatedly held in immigration cases that the court upon *habeas corpus* is not authorized to take evidence upon the original question as to facts concerning the immigrant's right to land where another tribunal of a *quasi* judicial character is constituted by law for the purpose of inquiring into such facts and determining the immigrant's right, but that the office of the writ of *habeas corpus* is to inquire into the jurisdiction exercised by that tribunal and whether it has kept within its legal limits and proceeded according to law. Inquiry into the facts may be had so far as to determine that question."

In re Vito Rullo, 43 Fed. Rep., 62.

See also—

In re Dietze, 40 Fed. Rep., 324.
In re Cummings, 32 Fed. Rep., 75.
In re Day, 27 Fed. Rep., 681.

In a celebrated immigration case brought up to this Court from California it is said—

"That the final determination of facts may be entrusted by Congress to an executive officer, and in such cases no other tribunal, unless expressly authorized by law to do so, is at liberty to re-examine or controvert the sufficiency of the evidence on which he acted."

In re Ekiu, 142 U. S., 651.

But whether or not this question as to political offenses should be investigated and decided solely by the executive department of the Government, a decision, when once made

by that department, is entitled to great weight and will be carefully considered by this Court and should be carefully considered by all other courts deciding similar questions. Judge Maxey in his opinion refers to the decision made by the honorable Secretary of State upon cases involving this very tragedy at San Ygnacio and the crimes with which Ruiz, Duque, and Guerra stand charged, positively declaring that the same were not offenses political in their character and awarding warrants of extradition in order that the offenders might be delivered up to the government of Mexico to be put on trial for these identical crimes. Judge Maxey in his opinion says:

"Counsel for the Mexican government upon the argument informs the court, as we are also informed by the public prints, that Mr. Gresham, the present Secretary of State, has recently delivered to the Mexican government one of the parties implicated in the Garza movement. With due respect to Mr. Gresham, whom the court regards as an eminent statesman and ripe jurist, I am constrained to differ from him in his construction of the sixth article of the treaty as applied to the facts of these cases." (Record, p. 104.)

Judge Maxey does not seem to have given that weight and consideration to the opinion of the Secretary of State to which it was entitled. In a similar case this Court says:

"The contemporaneous construction of a statute by the executive department charged with its execution is entitled to great weight and ought not to be overturned unless clearly erroneous."

U. S. *vs.* Philbrick, 120 U. S., 59, and cases cited.
U. S. *vs.* Hill, 120 U. S., 182, and cases cited.

In deference to this authority we will venture to quote what Judge Gresham said in the decision referred to by Judge Maxey. In speaking of the case of Francisco Benavides the honorable Secretary of State remarked:

"The department has come to the conclusion that the acts for which the extradition of Francisco Benavides has been asked are not of such a purely political character as to exclude them from the operation of the treaty.

"Benavides was in charge of a party of bandits, numbering some 150, who, on December 10, 1892, passed over the Rio Grande from Texas into Mexico and assaulted the Mexican garrison of about 40 men stationed at San Ygnacio, a ranch immediately on the Mexican border of the river. A number of the garrison were killed, a number wounded, and all the survivors made prisoners by the bandits. Benavides himself proposed that the prisoners be shot, but his purpose was frustrated or at least not executed, and the members of the garrison who had been taken prisoners were released on the Mexican side of the river.

"Several private citizens, non-combatants, were violently assaulted, but none were killed. All the horses of the garrison were taken by the bandits and at least two belonging to private citizens. Several small sums of money were taken from women. The supplies and equipments of the garrison were also taken.

"It further appears that the bandits in the course of the assault on the garrison fired the barracks and also burned some buildings belonging to private parties.

"The idea that these acts were perpetrated with *bona fide* political or revolutionary designs is negatived by the fact that immediately after their occurrence, though no superior armed force of the Mexican government was in the vicinity to hinder their advance into the country, the bandits withdrew with their booty across the river into Texas."

Had the district judge carefully considered this opinion of the illustrious jurist, for whom he professes so much respect, we apprehend that the prisoners would have been remanded to custody to await the decision of the executive department.

Having tried some two hundred of Garza's followers for a violation of the neutrality laws and meted out to them with an impartial hand their much-deserved punishment by confinement in the penitentiaries and jails of Texas, Judge

Maxey seemed unable to disabuse his mind of the idea that a violation of the neutrality laws necessarily carried with it the intention to commit a political offense on the Mexican side of the river. This reasoning is clearly *a non sequitur*. A military enterprise could be organized and set on foot in Texas with the bare intention of robbing and plundering the defenseless towns on the Mexican border, and the history of the two countries shows that this has been frequently the case.

The district judge also seemed unable to disconnect the expedition of Benavides from that of Catarino Garza, when in point of fact for nearly a year previous to the burnings and murders at San Ygnacio Garza had left the country and was engaged in Central America at his old trade of robbing and murdering defenseless citizens under cover of a revolutionary flag. In order that the court may fully understand the facts of this case and the want of connection between the Garza raids and the tragedy at San Ygnacio, attention is invited to the following

Narrative.

The so-called Garza revolution began to take shape in the summer of 1891, and on the 15th of September of that year Catarino Erasmo Garza crossed the Rio Grande with thirty-eight men known to be smugglers and renegades of the lowest class, and were at once met on the soil of Tamaulipas by the Mexican troops and driven again to the Texas side of the river. Not a single person joined this expedition and it was never regarded by the Mexican authorities as anything more than a marauding party.

Garza again collected his scattered followers and on the 7th day of November, 1891, crossed the border again with a force of about seventy men, and, being attacked and routed by the Mexican forces at Derramadero de los Ovejas, recrossed on the 12th.

The third expedition, led by Carmen Ybanez, numbering ninety-two men, crossed over into Mexico on the 20th of December, 1891, and attacked a small village called "Las Tortillas," killing two men and losing three of their own number. The brigands, being attacked on the 21st and repulsed by the Mexican troops under Captain Pedro Reyes, again fled for safety to the north bank of the Rio Bravo, leaving six men killed and some prisoners, who "died of their wounds."

On returning to this side by squads it was some time before they could be collected, but at last they assembled in full force near La Grulla, at Retamal. Learning that the bandits were encamped at the Retamal to the number of about one hundred, Captain George F. Chase, of the Third cavalry, took about twenty United States soldiers and with one or two United States deputy marshals set out from Fort Ringgold and attacked Garza in his camp at about midnight on the 21st day of December, 1891, and scattered his followers in every direction. At about noon of the next day Captain Chase came up with the bandits again and attacked them, having one man, Corporal Erdstrom, killed.

Then ensued a game of hide-and-seek between the United States soldiers and the bandits, and finally on the 29th of December, 1891, Captain Hardie, with a detachment of civil officers and United States troops, fell upon the full camp of the marauders, under Garza, at Charco Redondo. The bandits were strongly posted in a dense jungle of cactus and chaparral, but they could not withstand the determined onset of the soldiers and the Texans and under cover of darkness separated and fled. During the flight Captain Hardie captured a large number of them, some of the prisoners being wounded.

Garza himself, skulking in the chaparral near the rancho of Alejandro Gonzales, his father-in-law, narrowly escaped capture. He broke away under fire, clad only in his underwear and without shoes. His papers were captured by

Captain Bourke and supplied valuable evidence in the prosecutions which followed.

He claimed to have, on paper, eight battalions, composed of about twelve hundred men, but he never had actually assembled at any one time, even on Texas soil, more than four hundred men, and the greatest force with which he or his accomplices ever crossed the river did not exceed one-half that number.

This virtually terminated the so-called revolution led by Catarino Garza, and he left the State of Texas and the Republic of Mexico forever.

All these facts have passed into history, and a graphic account of them may be found in an able article written and published by Senor Romero, who is now the Mexican minister at this capital, in the North American Review of the month of September, 1892.

A discursive account of the same transactions was published also by Captain John G. Bourke, of the 3d United States cavalry, in the Mexican Financier, a translation of which appeared in the San Antonio Daily Express of the 7th of April, 1895. Being matters of history and public notoriety, the court will probably take judicial knowledge of them if necessary.

But to come down to the actual events on which these prosecutions were founded, which are condensed from the record:

On the 10th of December, 1892, a raid was made from the Texas side of the Rio Grande upon the village of San Ygnacio, on the Mexican side, by a band of armed men, amounting to about one hundred and thirty or forty in number, under the leadership of Francisco Benavides. The prisoners, Duque, Ruiz, and Guerra, were among the marauders who made this assault and assisted in burning the houses, murdering the men, robbing the women, and kidnaping the peaceful villagers and bringing them over to the Texas side of the river.

The attack on the town was made just at noon, and the bandits, having dismounted in the woods, left their horses and advanced upon the barracks on foot. The Mexican soldiers in the houses made the best defense they could until their ammunition was exhausted and the houses were fired, when several of them surrendered. Some of the dead and wounded men were consumed in the burning barracks. Captain Segura, being severely wounded, managed to crawl out of the building, but was caught up by Maximo Martines, one of the marauders, and hurled back into the flames and perished. Thirteen men were killed; all but two, officers or soldiers of the Mexican government. About fifteen or sixteen were captured, but were afterwards released. The barracks, which belonged to Mrs. Ramona Gonzales, but were occupied by the Mexican troops, were burned, as were also two or three other houses belonging to citizens of the village. The bandits then proceeded to rob a cart loaded with goods belonging to Basilio Martines, and also robbed Mrs. Eulogio J. Martines of seven or eight dollars in money and some blankets. They also took from the women who were in the village various articles of food and clothing and furniture. They then kidnaped three citizens, Pedro Salinas, Refugio Martines, and Juan Martines, and brought them over the river to the Texas side, where they kept them prisoners for several days, until they finally made their escape. The bandits remained on the Mexican side of the river about six hours and recrossed at the village ford.

Although victorious, no attempt was made by Benavides and his followers to penetrate into the interior of the country or to obtain recruits or to extend their conquests. As soon as they had completed their work of murder and rapine they left Mexican soil and have never returned.

These facts are drawn from the record and from historical data of unimpeachable veracity, and are commended to the Court for a careful perusal.

But Judge Maxey appeared to be impressed with the authority of the Ezeta case which had just been decided and published in the newspapers prior to his consideration of the case at bar. There is a very broad distinction to be drawn between the Ezeta case and the San Ygnacio cases. In the first place, General Ezeta was vice-president of Salvador and commander-in-chief of the armies of that Republic, also acting president at the time of the occurrences which were charged against him as crimes. They all transpired in the prosecution of his efforts to put down an insurrection. On the contrary, Benavides was a foreigner claiming to be a citizen of the United States, having for the base of his operations the soil of a neighboring Republic, commanding a gang of marauders, and using the name of revolution and the veil of a proclamation as a thin disguise to cover up his acts of murder, robbery, and rapine. And, again, Ezeta was defeated and the insurgent party was triumphant and organized a government compelling him to flee the country. On the contrary, Benavides was victorious in the only engagement which he had with government troops, and, instead of holding his ground and inviting the Mexican people to rally to his standard or advancing into the interior and prosecuting his conquests, he remained on Mexican soil only long enough to gather up his booty and depart, his entire occupation of the village of San Ygnacio covering not more than four hours. It seems to us that the distinction between the two cases is broad and well defined, and the one cannot be cited as authority for the other. This Court is respectfully referred to the archives of the State Department and the War Department, where it will be found that the Secretaries of State and of War and the Commanding General of the Army have uniformly classed Benavides and his gang as marauders, bandits, and robbers, and in this estimate of the accused General Wheaton and General Stanley and the officers

under their command, who were immediately engaged in the suppression of these disturbances, uniformly and heartily concur. The Commanding General says in one of his communications to the War Department concerning these outrages, that "the designs of robbery are only veiled under a pretense of political purposes."

The Court may be referred to the case of Cazo, who surprised the town of Agualeguas and was held to be guilty of a political offense by Mr. Secretary Bayard for reasons quoted in Moore on Extradition (1 Moore, section 217). But it is suggested that if the mere act of circulating proclamations and plans for revolution and of shouting hurrah for some person or down with some government gives a crime a political character, all crimes might be considered of this nature when their perpetrators are certain that they commit them with impunity, and by merely leaving the country where they are committed in due season to avoid capture there is no need of their adopting precautions such as concealing their identity or making an attack by night, since their crimes are not punishable in the country in which they take refuge.

If it should be argued that Benavides had with him in the assault on San Ygnacio as many as one hundred and fifty persons thus claiming to be a military force, we would venture to remind the Court that many common crimes have frequently been committed by more than one hundred and fifty persons acting together. Almost every lynching which has disgraced the State and the nation has been committed by hundreds and sometimes by thousands of persons assembled together in violation of the law.

It may also be observed that the treaty excepts offenses of a *purely* political character, in this differing from many other treaties which omit the descriptive adverb. There was certainly some purpose in thus narrowing the class of cases that should be excepted from the treaty. Some of the treaties

have excepted not only offenses of a political character, but all offenses connected therewith. Then it can fairly be argued that if an offense is partly political and partly private or common it should not be excepted from the provisions of the treaty. A mere political coloring given to an offense by the perpetrator is not sufficient to shield him from extradition under the treaty between the United States and Mexico. We will respectfully call the attention of the Court to the record, which shows that the murders and robberies committed by these persons, together with their associates, are not confined to the soldiers of the Mexican army or to the property of the government of Mexico, but the unarmed inhabitants of San Ygnacio were assaulted and kidnaped and robbed and had their houses burned by these marauders. Then how can these offenses be classed as *purely political?*

Indeed it appears in considering these facts in connection with the treaty that the very danger lest common crime should be invested with a certain political character was what induced the framers of the treaty of 1861 to exempt from extradition persons charged with crime of a *purely* political character; so that, according to that provision, whenever there is a well-founded doubt of the political character of the crime such crime is not included in the exception made in article 6 of that treaty.

Attention is also called to the marked difference between political crimes committed by a citizen in his own country, which compel him to leave it and take refuge in the territory of a foreign nation, and crimes seemingly of a political character committed by a person who sometimes calls himself a Mexican citizen, and only as such can commit political crimes, and sometimes calls himself a citizen of the United States and who makes that country, in violation of its laws, a basis of hostile operations against a neighboring and friendly country, and who has no following and no sup-

porters in the country which he invades, and who can only remain there long enough to allow the forces of that country to arrive in pursuit of him, and who limits his operations to murder, arson, robbery, and kidnaping, and finally retires with his booty, seeking an asylum in a country to which he cannot be pursued and from which, if this judgment is allowed to stand, he cannot be extradited.

Of course it is a principle of international law that the country of the asylum is the final judge in every case as to whether or not the offenses for which any person sought to be extradited is political, and there is no appeal from this decision except to the stern arbitrament of war, but we hope that no such considerations as these induced the court below to render the judgment which is herein complained of. While it would be unworthy of a civilized nation to yield up to the fury or malice of an opposing faction a *bona fide* political exile, still it is equally unworthy of any nation, civilized or not, to refuse to surrender to a friendly nation a malefactor who disguises his deeds of kidnaping, robbery, arson, and murder under the thin veil of a political offense. It has been said by writers on this subject that it is difficult to exactly define what is denominated in the language of treaties as a political offense, but we have succeeded in finding such a definition given by an English court:

In the case of Meunier, reported in Law Reports, vol. 2, Q. B. (1894), on pp. 417–419, a definition is given of a political offense which commends itself to our best judgment for lucidity and correctness. The prisoner was a professed anarchist and his extradition was sought on charges of attempting to destroy buildings, among others military barracks, in France. The same provision appears to exist in the extradition acts of England as that contained in the treaty between the United States and Mexico. The learned judge delivering the opinion of the court says:

"The last point taken is that, so far as regards the outrage at the barracks, the offense charged is one of a political character, and therefore the accused is not liable to be surrendered under the extradition acts, for it is said that the outrage was an attack on government property and was an attempt to destroy the quarters occupied by the troops of the French government. It appears to me that, in order to constitute an offense of a political character, there must be two or more parties in the State, each seeking to impose the government of its choice upon the other, and that if the offense is committed by one side or the other in pursuance of that object it is a political offense; otherwise not."

The writ of *habeas corpus* was refused.

If this authority is worthy of consideration and recognition, then there can be no doubt that these offenses with which these persons are charged are not excepted from the provisions of the treaty, and that, instead of being political offenders, Ruiz, Duque, and Guerra are ordinary malefactors charged with common crimes committed in a territory to which the laws of the United States do not extend, but for which they should be punished and must be punished, if at all, by the Mexican government.

We have been unable to find any decision emanating from a court of last resort in which the provisions of this treaty in regard to political offenses have been construed. The dearth of judicial authority on this point arises, most probably, from the fact that these questions have been uniformly left where they belong—to the decision of the Department of State.

Having somewhat at length presented the views of the Mexican government on these cases, we leave them with the Court for consideration and determination, hoping that, while full justice is done the prisoners, such a conclusion may be reached as will assist in quelling the lawlessness which is only slumbering on the border, ready to break again into flame when fanned by the breath of avarice or revenge.

The sovereign nation of Mexico asks of this Court that the treaty made by these two friendly Republics may be given a fair, just, and liberal construction in the interests of international peace and good will.

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JAN 13 1896
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Supreme Court of the United States.

Term No., 622. Case No. 15,910.

P. ORNELAS *vs.* I. RUIZ ET AL.

SUPPLEMENTAL BRIEF FOR APPELLANT.

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SUPPLEMENTAL BRIEF FOR APPELLANT.

On the tenth page of appellant's brief we take the position that the executive department of the Government, having complete control of the foreign relations of the United States, is the only proper authority to decide the question as to whether or not certain offenses for which extradition is sought are to be considered political, and whether or not on that account the application for extradition should be refused.

On this point we beg leave to refer the Court to three cases only and to quote passages therefrom, which seem to us to relegate the question of whether or not these crimes with which the prisoners are charged should be classed as "purely political" offenses under the treaty, to the President or to the Secretary of State, acting under his direction.

Judge Betts, sitting as a committing magistrate in an extradition case, uses the following language:

"The topics already disposed of embrace all those legitimately belonging to the judicial authorities to investigate or determine. The other points debated on this hearing are of a diplomatic character, and it is the province of the President, at least in the first instance, to decide them at

his discretion. Whether the Government is bound by the treaty compact to deliver up the accused for offenses committed by him in France which are not crimes by our laws; whether he is within the description of persons named in the treaty as subject to extradition; whether the treaty went into operation and became obligatory from its date or only from its ratification by assent of the Senate or other period posterior to its date, and finally whether the obligations assumed by the treaty will be fulfilled or not, are considerations addressed to the political department of the Government. Over these questions the judiciary has no immediate control or jurisdiction. The *casus fœderis* of the treaty may be ever so manifest, yet, under the polity of our Government, it in no way appertains to the judiciary to direct or contravene the action of the executive department in respect to it. The judicial authority can only be invoked incidentally and indirectly to pass upon such provisions of a treaty, and it is only in that manner that acts of the President in execution of a treaty contract can be reviewed and adjudicated upon in courts of justice."

In re Metzger, 17 Federal Cases, pp. 237 and 238, case No. 9511.

Judge Ingersoll, on an application for a writ of *habeas corpus, inter alia* says:

"The counsel for the relator further claims that if there was evidence before Commissioner Nelson to establish the charge that he was called upon to investigate, that that evidence was not sufficient to establish such charge; that he erred when he found that the evidence was deemed by him sufficient to sustain the charge, and that therefore the relator ought not to be holden under the warrant of commitment which he issued. The first question that presents itself on this branch of the case is, What right had I to interfere, even if I should be of the opinion that he erred in judging of and weighing the evidence when he found that the evidence was deemed by him sufficient to establish the charge he was called upon to investigate? Commissioner Nelson has the same authority, in a matter of this kind, as a judge of the Supreme Court would have, had he undertaken to investigate the charge. And I have no more right to sit in judgment on the opinion by him framed, that the evidence

was deemed by him sufficient to sustain the charge, when there has been any legal evidence before him to prove the charge, than I should have to sit in judgment on the opinion of a judge of the Supreme Court in a case under the like circumstances. I have no such power given to me by the law, and I have to disposition to exercise a power to discharge upon a *habeas corpus* or to attempt to exercise such power, unless it is given to me by law. The act of Congress, in prescribing the duties and the powers of the commissioner, provides that 'if on such hearing the evidence be deemed sufficient by him (the commissioner) to sustain the charge under the provisions of the proper treaty,' it shall, among other things, be his duty to issue his warrant of commitment of the person accused to wait the determination of the President, whether or not he will, upon the evidence taken before the commissioner, issue a warrant of extradition. Where there is any legal evidence before the commissioner to establish the charge, and that legal evidence is deemed by him sufficient, no matter how many others may deem it insufficient, and he grants a warrant of commitment, that commitment must stand, and no judge has a right to disregard it or to render it ineffectual; at least, not until the expiration of two calendar months after it shall have been issued. In such a case no one can revise the opinion of the commissioner but the President. The President has that power. If he should be of the opinion that the evidence taken before the commissioner on the hearing was not sufficient to sustain the charge, then it would be his duty to withhold a warrant of extradition. If he should be of the opinion that it was sufficient, then it would be his duty to grant such warrant. The necessities of the case, therefore, do not require that I should express an opinion upon the sufficiency of the evidence upon the hearing before the commissioner."

In re Heilbronn, 11 Federal Cases, p. 1031, case 6323.
Same case, 12 N. Y. Legal Observer, pp. 74 and 75.

Judge Johnson, on *habeas corpus*, in 1877, announces the following propositions:

"When it is remembered that the treaty and the statute create the power, and that judicial intervention takes place only because they prescribe it, and that no review by judicial authority of the action of the officer who executes

the power is provided by either treaty or statute, no ground is apparent upon which such a review can be claimed. The jurisdiction of the commissioner is complete when the prisoners are brought before him under the statute and treaty upon a charge provided for by the treaty. He is then to hear and consider the evidence of criminality in the exercise of his jurisdiction. If, on the hearing, he deems the evidence sufficient to sustain the charge under the provisions of the proper treaty, he must certify the same, together with a copy of all the testimony taken before him, to the Secretary of State. In this case a mass of evidence was adduced before the commissioner, authenticated according to the provisions of the act of June 19, 1876 (19 U. S. Stat. at Large, 59), and relating to the charges against the prisoners. Of the effect of this evidence it was the judicial duty of the commissioner to judge and neither the duty nor the power to review his action thereon has been conferred upon any other judicial officer. If he deems it sufficient, the statute prescribes his further action in the premises. It then rests with the executive authority to determine, in the last resort, what is demanded by justice and the obligations of the treaty. If it appears to the President, upon a review of all the evidence, that the charge is not sustained, and that justice and the obligation of the treaty do not require the surrender of the prisoners, he can refuse it, and they can be set at liberty, either under the provisions of section 5273 of the Revised Statutes or in any other appropriate manner."

In re Vandervelpen, 14 Blatchford, 139 and 140.

These cases also bear on other points presented in this case, and their application will readily be made by the Court.

These supplementary pages may be inserted between pages 10 and 11 of the Brief heretofore filed.

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FILED
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No. 622. (*15,910*).

IN

Supreme Court of the United States

OCTOBER TERM, 1895.

PLUTARCO ORNELAS, Consul of the Republic of Mexico,
Appellant,
vs.
INEZ RUIZ, JESUS GUERRA, AND JUAN DUQUE,
Appellees.

Appeal from the District Court of the United States for the Western District of Texas, at San Antonio.

BRIEF OF APPELLEES.

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In this cause there are but two questions to be considered by the court:

First. Did the District court of the Western District of Texas, at San Antonio sitting, Hon. T. S. Maxey, District Judge, presiding, have jurisdiction to hear and determine these causes by "*habeas corpus*" and "*certiorari*" and the questions of law governing facts therein?

Second. Did the United States District court for the Western District of Texas, at San Antonio sitting, Hon. T. S. Maxey,

District Judge, presiding, err in rendering the opinion and decree in said causes?

There were other matters before the court in the special exceptions and demurrers to the complaints, and the warrants of arrest, which might demand the careful attention of this court on perusal, and to which appellees' counsel call attention of the court on the merits thereof.

Treating of the question of jurisdiction under "*habeas corpus*" and *certioirari*, the United States District courts are fully empowered to issue such writs and to fully determine the resultant facts pertaining to same.

Authorities.

See U. S. Rev. Stat., sects. 751, 752, 753, 763; and as fully determined by judicial decision.
See Moore on Etradition, Vol. 1, pp. 534, 535, 536.
See Speer on Extradition, 2d Ed., pp. 233 (note 8), pp. 234 (note 9); pp. 265 and 269.
See Exparte Kerr, 18 Fed. Rep., p. 167.
See in re Stupp, 12 Blotch, p. 503.
See in re Ableman vs. Roth, 21 How., p. 506.
See Exparte Long, 18 Wall, p. 163.
See in re Martin, 5 Blotch, p. 303.
See in re Herwick, 5 Blotch, p. 414.
See in re Fowler, 18 Blotch, pp. 430, 443.
See in re Van Horn, 4 Dillon, pp. 411, 415.
See in re Jose Ferrira de los Santos, 2 Marshall, pp. 495, 515.

Then comes the foundation of appellees' defense, in setting up the question of being political prisoners, having the right of asylum, which under the treaty and the laws appellees have, and which they ask the courts to rightfully grant unto them.

And as to right of asylum
See Speer on Extradition, 2d Ed., p. 82 (note 5).
See Speer on Extradition, 2d Ed., p. 114 (note 4).

See Moore on Extradition, Vol. 1, p. 303.
See treaty between United States and Mexico, dated December 11, 1861, in 12th U. S. Statutes at Large, 1873-1875, p. 506.
See Webster's works, Vol. 6, p. 355.

As to the offenses charged in the complaints being of a purely political nature:

See conclusions of Judge Maxey's opinion, Trans. p. 104.
See testimony Dano Hernandez, Trans. pp. 31, 71, 72.
See testimony Librado Gutierez, Trans. pp. 33, 86, 87.
See testimony Lucio Cantu, Trans. p, 34.
See testimony of Refugio Martinez, Trans. pp. 37. 68, 69.
See testimony of Eulogio J. Martinez, Trans. pp. 40, 78.
See testimony of Ricardo Granadas, Trans. pp. 45, 91.
See testimony of Capt. McMasters, Trans. p. 47.
See testimony of Miguel G. Dena, Trans. pp. 57, 93.
See testimony of Juan Duque, Trans. pp. 63, 99,
See testimony of Blas Hinojosa, Trans. p. 89.
See proclamations, plans of the revolution, manifesto to the Mexican Army, and indictments against (defendants) appellees for violating the neutrality laws of the United States in 1891-92. (Same should appear in the Transcript among the papers, for they were used on the trial in the courts below and are a part of the statement of facts in this case.) And as such, under the same, appellees are not extraditionable.
See 6th Art. of treaty between U. S. of America and the Republic of Mexico, dated 11th December, 1861; in 12th Statutes at Large, U. S. A., 1873-1875, p. 506.
See Speer on Extradition, 2d Ed., pp. 48, 52 (note 3).
See Moore on Extradition, Vol. 1, p. 304, sec. 205 (note 3).
See Moore on Extradition, pp. 305-6.
See the Annabell Isabella, 6 Wheat., p. 71.
See Vattel on Law of Nations, p. 248.

What constitutes political offenses:

See Speer on Extradition, 2d Edition, p.

See Moore on Extradition, Vol. 1, p. 303, sec. 205 (note 3).
See Moore on Extradition, Vol. 1, p. 308, sec. 208 and note.
See Moore on Extradition, Vol. 1, p. 312, sec. 210 and note.
See Moore on Extradition, Vol. 1, p. 313, sec. 211 and note (Wm. Lyon McKenzie).
See Moore on Extraditien, Vol. 1, p. 322, sec. 215 (St. Alban's Raid).
See Moore on Extradition, Vol. 1, p. 323, sec. 216 and note (Mexican Revolutions).
See Moore on Extradition, Vol. 1, p. 324, sec. 217 (Carzo case and note of Secretary Bayard.)
See Moore on Extradition, Vol. 1, pp. 314 and 315.
See in re Ezota, et als., 62 Fed. Rep., p. 972.
See opinion of Secretary of State W. Gresham, dated 23rd of February, 1893; Pub. Arch. Sec'y of State.

Before this learned Judge (Maxey) these appellees, together with more than two hundred others, followers of Catarino E. Garza, had been indicted and nearly all convicted of the charge of levying war against the government of Mexico within the jurisdiction of the United States in 1891 and 1892. During these raids, the strong arm of the United States Army and constabulary were brought to bear against the organizers or revolutionists till the same were broken up and the participants therein suffering the penalties imposed by the court and country. Under all these facts and circumstances the court, hearing the facts under "*habeas corpus*" could do nothing else but discharge the defendants, the appellees herein.

In the appeal to arms (see proclamation and manifesto of the Garza revolutionists; should be in Transcript and among the papers on the trials below) is found:

"We should abandon the plow and take the sword, and guided by the love of our country, reconquer on the battlefield the rights of which we have been deprived.

"The shades Quantimoc, Morales and Juarez are watching us from eternity, expecting to see us comply with our duty as they have done."

No orator's zeal in the annals of time eclipse the appeal to arms for a common cause. No patriots of a land where the blood of heroes flowed, were ever touched by appeals to arms with a grander chorus than was made by those who espoused the cause of Catarino E. Graza, in their vain attempt to overthrow the government of Diaz, the then president of Mexico.

If successful, the historian would have chronicled the event with laudations of their achievements. The world accord them the chaplets of patriots and warriors of renown. In defeat, the victors pursue with sleuth-hound instinct to bring to annihilation and to death.

What rule shall civilization hang over the pathway of despair, save the one that applies to those in victory; as well as those in defeat?

This rule drew from the pen of the immortal Napoleon, in his reply to the Hamburg senate, when he said in behalf of Napper Tandy, and others: "Virtue and courage are the support of states. Servility and baseness their ruin. You have violated the laws of hospitality in a manner which would bring the blush of shame to the wondering tribes of the desert."

When this is considered under the light of the facts shown in the trial below, but one common cause, and all working to that end to enforce by heroic arms, we hold that the court should sustain the judgment of the court below and discharge appellees from further custody.

W. H. BROOKER.

Attorney for Appellees Ruiz, Guerra and Duque.